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## Marketing Archaeology

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William H Krieger  
*Ethical Theory and Moral Practice*

**ABSTRACT**

In the 19th century, ‘scientific archaeologists’ split from their antiquarian colleagues over the role that provenience (context) plays in the value of an artifact. These archaeologists focus on documenting an artifact’s context when they remove it from its original location. Archaeologists then use this contextual information to place these artifacts within a particular larger assemblage, in a particular time and space. Once analyzed, the artifacts found in a site or region can be used to document, to understand, and explain the past. Given the central place of context for archaeological excavation, archaeologists have done everything in their power to combat the black market. Hoping to stem the tide, archaeologists have leveled attacks on those who excavate these materials, those who traffic in them, and those who purchase them. Unfortunately, despite decades of argument and legal wrangling, archaeologists have been unable to stop the black market. The purpose of this paper is to analyze this failure from the supply side (what archaeologists call looting) and to suggest better ways to engage other stakeholders to the benefit of most, if not all.

**INTRODUCTION**

Based on advances in archaeological theory and methods in the 20<sup>th</sup> and 21<sup>st</sup> century, archaeologists have been able to reconstruct more and more about the past. One of the changes that has made archaeology better at bringing the past to the present has been the introduction of artifact provenience to the field. An artifact’s provenience is its context, its location in relation to the material around it. This material disappears once the artifact is disturbed, which means that removing an artifact without recording its provenience effectively destroys the artifact’s value, its connection to its past. Since archaeologists believe that this knowledge belongs to humanity, archaeologists argue that the preservation of archaeological context is a universal duty. Given the difficulty in properly identifying and recording this information, archaeologists argue further that they must be present when artifacts are recovered. As such, archaeologists have been on the front lines of the fight against other diggers (also known as looters), who they argue are destroying the

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value of archaeological artifacts. Other groups, ranging from local diggers, indigenous cultural groups, tourists, and museums, to international artifact smugglers, have argued that other values should govern the collection of artifacts. These groups have little to no interest in the protection of archaeological context, at times actively destroying these data to protect themselves from current antiquities laws. While this author believes firmly that archaeological context is invaluable to the collection, protection, and presentation of artifacts, he sees a problem with the central argument that the protection of context is an obvious, universal good. The goal of this paper is to show how and why archaeologists believe in the importance of context, why this argument has failed to convince other stakeholders, and how archaeologists might re-package their message in order to re-introduce context to “diggers” (for lack of a better, neutral term) in a way that all stakeholders would see as valuable, and thereby worthy of protection.

Regardless of the characteristics we use to quantify their value, artifacts are valuable to a wide variety of stakeholders. Whether we speak of individuals hoping to increase status or wealth, governments trying to connect current empires to ancient cultures, or groups protecting monuments from destruction, people have devoted large amounts of time and resources to relics of the past. Humans collected antiquities in ancient times, as evident from investigations of graves full of materials that predated their owners, and collection continues today.<sup>1</sup> Until recently, people primarily connected themselves to the past by obtaining artifacts. However, in the last 100 years, scientific archaeologists have come to use information from artifacts as data. Both the new archaeologists of the mid 20<sup>th</sup> century and contemporary scientists would largely agree that: “[w]hat distinguishes archaeology as a discipline – a subfield of anthropology, with an institutional base in museums and universities – is, above all else, a commitment to treat

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<sup>1</sup> Kersel (2011, 521-524) provides a very interesting study of the varied groups interested in antiquities.

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archaeological material as an empirical record of the cultural past” (Nicholas and Wylie 2009, 13-14).

Archaeologists, concerned with context, imported stratigraphic analysis into archaeology in the 19<sup>th</sup> century. Stratigraphy, the study of layers of depositional material in order to understand changes in that material over time, would be used by archaeologists first to create relative chronologies (matching archaeological finds with contemporaneous material at a site or in a region) and then to set absolute chronologies (connecting these relative timelines to datable materials). This change in focus would have a major impact on archaeology.<sup>2</sup> Archaeologists would now collect data related to an artifact’s find-spot (or provenience) and not just on the artifact itself.<sup>3</sup> This contextual information can only be recorded *in situ*, at the time of excavation. As there is no way to *re-situ* an artifact, items collected without context in mind would have little value as artifacts. To archaeologist Morag Kersel, “Valuable information is gained through scientific excavation—information about associated architecture, finds, and mortuary contexts—which is all but destroyed by the illegal excavation process. According to archaeologists once artifacts enter the marketplace in their decontextualized state much of their relevant information and the knowledge that can be gained are lost” (Kersel 2011 526).

Archaeologists spend considerable time combatting the black market (the unsanctioned extraction, transportation, and sale of artifacts). Archaeologists call the first stage of this process “looting” and they dislike it because, without a proper excavation, archaeologists cannot gather

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<sup>2</sup> Although some archaeologists were calling for theoretical changes in the 19<sup>th</sup> century, in the United States, scientific (or new) archaeology became a major movement in the 1960s. Schnapp 1997 provides a good overview of the factors leading to the shift from pre-theoretical to theoretical archaeology. Trigger 1989 presents accounts of the methodological and theoretical changes going on in the field during this time period.

<sup>3</sup> Brodie 2012 rightly notes (on p 232) that provenience (find spot) and provenance (the chain of ownership of an artifact after its extraction) are terms that are routinely confused and misused. While misrepresenting either is problematic, understanding why archaeologists are more concerned with the former (for scientific reasons), while curators are more interested in the latter (for legal reasons), is important.

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knowledge about the past, knowledge that will benefit humankind. This ideal founds ethical and legal arguments designed to ‘protect’ these artifacts from being devalued by other parties. This position is juxtaposed with groups digging with other (read unethical) goals in mind.

Much can be (and has been) written on each stage of the black market. Rather than focus on the export and sale of artifacts, this paper will work on the ‘supply side,’ by first questioning the means generally used by archaeologists to limit or end the looting side of the black market, and by then hopefully resetting the conversation in a way that will be more productive than it has been to date. To the former point, despite this author’s belief that we must do whatever we can to preserve an artifact’s find-spot, there is good evidence that there are reasonable people who do not share the archaeological view that there is a *universal imperative* to preserve archaeological context. To the latter, absent such an imperative, to record an artifact’s find-spot, then archaeologists must ask whether there is a way to (re) introduce the importance of archaeological context in a way that will truly be of *universal benefit*. After arguing that this is possible, the paper will move to a number of (more or less successful) attempts to raise public interest in archaeological context, and will conclude with some thoughts about the field moving forward.

## **A MARKET FOR ARTIFACTS**

In addition to providing archaeologists with scientific data, a part of an artifact’s appeal is that, as a tangible piece of the past, it creates a physical connection to its time and place of origin. “Artifacts can and do act as effective cultural ambassadors—potent communicators of ethnic traditions, artistic inspiration and fundamental to the intellectual and spiritual development of humanity” (Kersel 2011, 524). Artifacts are valued by a variety of stakeholders, and the measure

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of that value is unique to the interested party. As Kersel (2012a) argues, looted objects can be valued simultaneously as symbols and as commodities: “Through discussions with the various stakeholders in the trade in illegal artefacts, it became apparent that looted items, while perhaps revered and idolized, do not always lose their exchange value – they often retain their economic value for the museum, for the individual collector, and for society at large” (Kersel 2012a, 255).<sup>4</sup>

Even if artifacts can be valued by a number of stakeholders, the question remains whether these parties have the right to participate in the excavation of antiquities. Archaeologists, for very good reasons related to their education, experience, and goals, believe that the answer is no, that their training grants them a position of epistemic privilege when it comes to excavation. However, for a number of reasons (discussed below) other diggers believe that they have rights to dig up and dispense with antiquities found on their land. As many of these diggers believe that an artifact’s value is tied to its monetary value, it is no wonder that these groups and individuals see archaeologists as competitors instead of colleagues. As a result, these so-called looters would much prefer a market-based approach to antiquities, where supply and demand, the value of the materials making up the artifact, and the like, would govern artifact collection and sale.

Archaeologists are heavily resistant to the idea that artifacts should be valued in this fashion for the simple reason that this viewpoint will result in the further destruction of archaeological context. Most professional societies have some sort of policy against using their conferences and publications to discuss (or in some cases, to be the first source introducing) artifacts that are without provenience, as the belief is that by discussing or authenticating these pieces,

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<sup>4</sup> Kersel argues contra Baudrillard 2001, who believes that a fetishized object loses its exchange value.

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archaeologists would unwittingly add to their market value.<sup>5</sup> The hope here is that, by refusing to handle decontextualized artifacts, archaeologists will shield themselves from being a part of illegal activities, and that they will avoid unwittingly help to expand the market by engaging in actions that aid in the valuation or sale of these antiquities (Brodie and Renfrew 2005, 356-7). Unfortunately, this zero-tolerance approach, accompanied by legal actions designed to punish groups involved in the trade, has not shut down the antiquities trade. Rather than calling for additional legislation to further punish these diggers, this author believes that archaeologists might be more successful in combatting this activity if they first understand why decontextualizing artifacts, seen as fundamentally objectionable to archaeologists, is not viewed as such by other stakeholders.

Archaeologists believe context to be something fundamentally important to all reasonable parties. Asked why there is a need to protect and preserve antiquities from looting, Derek Fincham responds “There are a number of reasons, but three predominate: (1) these crimes destroy archaeological context; (2) these objects are often acquired and displayed by museums and institutions with important educational missions – **which are of course perverted when theft and destruction are the root cause of the tragic journey of an object from its archaeological context**; and (3) the United States gives valuable tax breaks to institutions, and this financing should never be used to violate the laws of other nations” (Fincham 2009, 3, emphasis added).

While (as an archaeologist) this author agrees with Fincham, not all non-archaeological stakeholders agree with point 2. As Kimberly Alderman points out, people might have reasons to deny this, do to “the increasing commodification of information in the 21<sup>st</sup> century” (Alderman

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<sup>5</sup> Including, but not limited to the American Schools of Oriental Research (2003), the Archaeological Institute of America (1997), the Society for American Archaeology (2003), and the Society for Historical Archaeology (2003).



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2010, 93). For instance, while he recognizes that unprovenanced artifacts lose some value for archaeologists, James Cuno, President and CEO of the J. Paul Getty Trust, believes that museums should be allowed to work with these artifacts, regardless of their origins. Rather than merely arguing that museums should take illegally excavated artifacts as a necessary evil, Cuno argues: “But when an antiquity is offered to a museum for acquisition, the looting, if indeed there was any, has already occurred. Now the museum must decide whether to bring the object into its public collection, where it can be preserved, studied, and enjoyed, and where its whereabouts can be made widely known. Museums are havens for objects that are already, and for whatever reason, alienated from their original context” (Cuno 2005, 155). To Cuno, a museum that acquires artifacts is in no way connected to (and bears no responsibility for) the sellers’ bad acts, and additionally, he believes that museums have a responsibility to acquire these pieces, and that they are the best homes for these sorts of artifacts. Neither Cuno nor this author are arguing that museums should (or do) knowingly engage in illegal activities to circumvent the laws that many nations have in place. His position (as stated here) represents a coherent counterpoint to arguments made by archaeologists on the proper handling of antiquities.

When confronted by the fact that many governments disagree with his position, and have laws in place that result in the repatriation of artifacts taken by illegal excavations, Cuno argues against modern claims on artifacts left by ancient peoples:

It is the nature of culture to be dynamic and ever changing. Yet national governments ignore this fact. They impose a national claim of distinction on culture, and they seek an ancient pedigree for that culture. They want to claim primacy as much as purity: ancient origins and uninterrupted identity. But this is only politics. Modern Egypt’s claim of descent from pharaonic Egypt, or the People’s Republic of China for the ancient Qin, or Iraq from Mesopotamia, or Italy from ancient Rome is nationalist fantasy based on the accident of geography and enforced by sovereignty. Just ask the Copts in Egypt, the Tibetans in China, or the Kurds in Iraq. (Cuno 2009, 28)

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Speaking of claims to cultural patrimony, philosopher Kwame Appiah also argues that attempts to connect ancient artifacts to modern geography (or even to biology) makes no sense. "Indeed, a great deal of what people wish to protect as "cultural patrimony" was made before the modern system of nations came into being, by members of societies that no longer exist/ People die when their bodies die. Cultures, by contrast, can die without physical extinction" (Appiah 2009, 74).

For Appiah, neither land ownership nor DNA may be enough claim an artifact.

When the Metropolitan Museum in New York seemed close to a deal with the Italians to return a two-and-a-half-millennium-old terra-cotta vase from Greece, known as the Euphronios krater, Rocco Buttiglione of the Italian Culture Ministry declared that the ministry's aim was to 'give back to the Italian people what belongs to our culture, to our tradition and what stands within the rights of the Italian people.' I confess I hear the sound of Greeks and Etruscans turning over in their dusty graves; patrimony, here, equals imperialism plus time. (Appiah 2009, 76)

Appiah asserts that current patrimony laws do nothing but result in peoples or states 'owning' materials by virtue of proximity, directly at odds with the 'intent' of the creator cultures.

Appiah's position echoes his more general thoughts about the proper focus of modern life: "The right approach, I think, starts by taking individuals - not nations, tribes or "peoples" - as the proper object of moral concern. It doesn't much matter what we call such a creed, but in homage to Diogenes, the fourth-century Greek Cynic and the first philosopher to call himself a 'citizen of the world,' we could call it cosmopolitan" (Appiah 2006a, 1). Applying cosmopolitanism to the question in this paper, Appiah finds it strange when he hears of art as a *cultural contribution*.

"And there's something odd, to my mind, about thinking of Hindu temple sculpture or Michelangelo's and Raphael's frescoes in the Vatican as the contribution of a people rather than the contribution of the artists who made (and, if you like, the patrons who paid for) them" (Appiah 2009, 79-80). While this author appreciates Appiah's intent, to force people to ask

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questions about whether old allegiances are desirable (or possible) to maintain today, some of Appiah’s arguments about artifacts and patrimony run into difficulties on a couple of levels.<sup>6</sup>

For instance, in his argument against descendants’ claims, while Appiah agrees that peoples change over time (even as they continue to occupy a particular territory or have a clear hereditary link to the artifact makers), interestingly, he does not allow for cultural change to occur by the same processes. To argue his position, one would have to believe that cultures are static, dying out rather than changing along with the people who participated in them. This viewpoint was popular until the *culture historical* period of archaeology, and in fact arguments like this were used in the past to claim that a number of archaeological assemblages found in North America could not be associated with indigenous peoples living in the area.<sup>7</sup> However, well before the birth of the *processual archaeology* in the 1960s, archaeologists were reevaluating these ideas. Contemporary theoretical models posit that cultures (and the peoples expressing them) should be seen as dynamic.<sup>8</sup> Given our current understanding of culture, including arguments that have resulted in national and international agreements (i.e., NAGPRA) on the proper handling of archaeological artifacts, appeals to cultural continuity over time (and understanding that cultural change is a part of any given culture) should be taken into account in Appiah’s position.

Even in cases where there are no cultural heirs to an archaeological assemblage, this author sees a problem with Appiah’s recommendations. As Cuno (and Appiah) argue that universal stewardship is best achieved when artifacts are moved to a museum where those artifacts can be

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<sup>6</sup> When Appiah (2006a) wrote *Cosmopolitanism*, he stated in his introduction (xx-xxi) that he was not attempting to write policy, and that his musings were meant to be philosophical. However, his remarks in his other works lay the foundation for a practical position, one that would change archaeological policy, as in Appiah 2009.

<sup>7</sup> For example, prior to the 19<sup>th</sup> century, large earthworks in the American Midwest were attributed to the mythical “Mound Builders” rather than to the ancestors of Native American groups living nearby.

<sup>8</sup> For an early example, see Wissler 1917, 100-101. For an explanation of historical and philosophical issues behind these archaeological movements, see Krieger 2006.

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preserved and displayed for the education and enjoyment of all, then this author thinks that saving ownerless artifacts’ contextual information should be a priority. If context is the only information tying an artifact to its past, then eradicating that information (or willingly allowing for its destruction) would turn those artifacts into nothing more than old pieces of metal, stone, and glass. If Cuno and Appiah are interested in preserving these artifacts for their value to humanity, then the provenience of these unclaimed artifacts is what needs most to be protected. Additionally, as having these data would vastly improve a museum’s ability to present their artifacts, and to educate (or entertain) their patrons, museums would benefit from having at their disposal the contextual information lacking in unprovenienced artifacts. As such, Cuno and Appiah should argue for archaeological excavation.

### **ETHICAL, LEGAL, AND EPISTEMOLOGICAL ARGUMENTS**

Setting aside Cuno and Appiah’s arguments, don’t most reasonable people agree that archaeological preservation, as a universal good, is the best way to protect artifacts? According to international agreements on best practices, including UNESCO’s 1970 Convention on the Illicit Import, Export, and Transfer of Ownership of Cultural Property, the ownership of archaeological materials lies with modern governments or groups who can claim either geographical or cultural connections to the excavated materials. Best practices, in this case, would seem to grant modern governments the power to decide what to do with cultural artifacts. Although this is generally thought of in a positive light, as governments are seen as being interested in consistency and the rule of law, this sort of policy can be of little real benefit in cases where a government is not interested in protecting a certain class of artifacts, in cases

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where the government is divided on what to do with a particular set of cultural remains, or when the government needs to decide between warring groups who each claim those remains.

As a matter of practice, scientific bodies are generally granted the power to inform local communities that they will not be able to access or sell materials found on their lands. This policy conflicts with local traditions, as some indigenous groups believe that the artifacts they find on their property are there for a reason: “The use of material culture as a commodity is sometimes perceived by local people to be an ancestral contribution to the present-day population’s well-being” (Layton and Wallace 2006, 58). Others dig up artifacts in order to feed themselves and their families. According to Neil Brodie (1998), these ‘subsistence diggers’ make very little money for their efforts (dealers, who know the value of antiquities, and others who are involved in the movement and sale of these finds, make the lion’s share of the money from this enterprise) and expose themselves to danger (as they are directly engaged in illegal activities).<sup>9</sup>

If, at least for some involved in the antiquities trade, digging is a means of survival, it becomes difficult for archaeologists to maintain the ethical high ground. “Any effort to stop such digging in order to maintain the integrity of archaeological sites can then be construed as valuing archaeological heritage over human life” (Brodie 2010, 262). Thus it is argued that the characterization of subsistence digging as “looting” criminalizes what are already deprived communities, and subsistence diggers should instead be regarded as legitimate stakeholders in archaeological heritage holding an ethical position directly in opposition with the supposed universal ethical call being made by archaeologists. In fact, Hollowell (2006, 73-79) introduced a 2003 e-mail exchange debated by the World Archaeological Congress about the status of

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<sup>9</sup> Brodie (1998) provides an analysis of the relative scale. He estimates that the person digging up the artifact receives about 1% of the final value of that piece, with the vast majority of the profits going to the middlemen who move the antiquities between the original digger and the final buyer.

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subsistence digging. Here, economic justice was debated at length, with attendees asking questions about conditions in the global market that force some to engage in these activities.

As important as is starvation, it may not be needed to show that the archaeologists have not made their ethical argument. Recreational digging has a long history,<sup>10</sup> as does the excavation of antiquities for political purposes. For example, by excavating artifacts important to Israelis, some Palestinians use the antiquities trade to make a political statement, “...providing some (largely symbolic) measure of control over the situation...” (Kersel 2012a 258). James Westcoat, Jr (2007, 61-64) using a range of international conflicts to expose the landscape of different sources of conflict over heritage sites. In short, whether in times of peace or war, people have a propensity to protect or destroy pieces of cultural heritage to meet their political, religious, and economic goals, and the antiquities market provides an added (financial) incentive to sell off the enemy’s cultural ties to the land. In the end, whether indigenous people are digging for supper, for entertainment, or as a political statement, they generally see archaeological claims on artifacts as a power grab by an outside group. The result of this complete disconnect is the current state of the market.<sup>11</sup>

While many archaeologists have pushed for more legislation and enforcement of anti-digging policies, archaeologists like Ian Hodder have been spent considerable time and academic capital to understand and bridge the gap between archaeologists and diggers. Hodder has an especially interesting position, because he, unlike other archaeologists who are sympathetic to local diggers, believes that there are “universal ethical principles concerning cultural heritage” (Hodder 2011, 20), and that these must be offset by a contradictory set of local principles that are also important.

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<sup>10</sup> See Kersel 2011, 527.

<sup>11</sup> See Bowman 2008 for a focused account of the current state of the archaeological black market.

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Defending the need for ethical universal principles, Hodder argues that in this capacity, archaeologists help to save humanity from itself:

The assumption of a universal moral repugnance [to cases of looting and destruction of heritage] is at the basis of international attempts to protect heritage enshrined in the Venice Charter and in numerous statements by UNESCO and ICOMOS, particularly those related to the treatment of heritage during times of war/ Whether in war or peace, many of us take it for granted that World Heritage Sites should be preserved for the sake of humanity as a whole. We accept that there are sites of universal cultural significance... So here, there seems to be some notion of universal rights to cultural heritage, and we expect national and international bodies to do what they can to protect those rights. In such a context, we could easily say that the destruction of heritage was wrong – a crime against humanity and we could set this up as a universal moral or ethical judgment. (Hodder 2011, 20)

While this position would seem to place him squarely with the traditional archaeological position, Hodder contrasts these *universal human rights* with a set of *local human rights*, focused on the right of self determination (and self sustenance) of people, including indigenous groups, who are forced to choose whether to protect these sites or feed themselves. “So, whether universal rights exist or not, we still have to find a way of dealing with heritage rights in specific contexts. A sense of universal ethics is not going to help here. In fact, such a sense would be dangerous as a starting point for a collaborative discussion” (Hodder 2011, 22). In practice, Hodder is willing to start the conversation on far less than a shared framework. “Perhaps one can build guidelines for a universal ‘best practice’ on collaborative dialogue on heritage on the basis of these two simple principles – to listen and to respect. However, in cases of extreme conflict, barbarism and death, when the sides feel nothing but hurt and anger, even these expectations seem too high” (Hodder 2011, 23). In the end, “Ethics have a value as part of the process, not as some universal panacea that can be taken off the shelf and applied in all circumstances, but as an essential issue always to be considered throughout every part of the collaboration and dialogue” (Hodder 2011, 23). Hodder’s specific examples, taken from his work at Çatalhöyük, focus on bringing (at times)

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reluctant people to the table by showing the benefits of collaboration to the local populace, including education, involvement in data analysis, and modest economic support, whether directly related to the archaeological work (i.e. the creation of shops and commissioning of local products) or peripherally related (i.e. resurfacing of roads, investing in clean water).

Alderman similarly believes that archaeologists make a critical error when they assume ethical or legal priority over other stakeholders. Alderman argues that theorists improperly equate ethical stances and legal positions, showing a basic lack of understanding regarding the differences between these two positions. “Archaeologists base their argument that the looting of sites is undesirable on the consequential loss of context. This argument often relies on what is *right*, or how things *should be*, as opposed to obligations imposed by existing law” (Alderman 2010, 93).

A large part of the problem for archaeologists hoping to win their case is that they are relying upon ethics to set legal policy, and these fields simply do not map onto one another as easily as one might suppose.<sup>12</sup> Ethics, as a field, does not provide easy answers to (most) questions.

Actually, ethicists focus on a variety of theoretical stances (including but not limited to consequentialism, deontology, and virtue), disagreeing on the goal of ethics (promoting good actions, good intentions, or good character), on the proper focus of ethical inquiry (emergency situations, thought experiments, or everyday problems), and the metaphysical or epistemological underpinnings of an ethical system. In fact, like much of philosophy, ethics is better known for the questions it asks and the thought processes it involves than it is for specific content or

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<sup>12</sup> Archaeologists are not alone here. A search for professional organizations’ ethical codes of conduct returns a confusing range of professional codes, legal codes, and ethical principles. Institutional Review Boards (IRBs) at Universities and other research facilities, as mandated by title 45, part 46 of the US Code of Federal Regulations are designed to manage or mitigate potential ethical issues (meaning harm) to human participants involved in research. Additionally, many major cities in the United States have their own “Ethics Boards,” and these groups focus almost exclusively on settling disputes and citing individuals and groups for violations of codes and other legal matters.



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timeless answers.<sup>13</sup> “It can be contrasted with law, a system to regulate conduct that is codified and enforced. Put another way, ethics have to do with what is right and wrong while law has to do with what is allowed and proscribed. Sometimes the law is consistent with what is generally perceived as ethical, but quite often something can be *right* even if it's illegal or, conversely, it can be *wrong* even if not proscribed” (Alderman 2010, 93).<sup>14</sup>

If archaeological stewardship cannot be demanded as a matter of universal ethics, another possible defense of provenience might rely on the fact that it has traditionally been used as a source of knowledge. However, although tradition may be the ground from which knowledge springs, as Foucault notes, tradition does more than prepare that ground for knowledge. “Natural History did not become possible because men looked harder and more closely. One might say, strictly speaking, that the Classical age used its ingenuity, if not to see as little as possible, at least to restrict deliberately the area of its expertise” (Foucault 1970, 132). Foucault, whose “Classical Age” refers to the modern period, corresponding to the time between Descartes and Kant, disputes the possibility of a value independent foundation for science, instead arguing (along with others, such as Kuhn, Popper, and Wylie) that science is in part influenced by the people asking the questions. At times, archaeologists have (intentionally or unintentionally) used scientific and ethical arguments to fight to keep archaeological materials from, and have fought against the repatriation of those artifacts to, indigenous populations: “There is reason for concern, however, that this focus on ethics simply formalizes standards of practice that leave entrenched disciplinary values unchanged... When archaeological stewards fail to seek input from tribes –

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<sup>13</sup> This is not to say that ethicists can take no ethical stand, or that a lack of consensus (or a shared foundation) leads to ethical relativism. Even in anthropological archaeology, where cultural relativism is the norm, Salmon (1999) showed that it is possible to see cultures as relative without being forced to see ethics in a similar light.

<sup>14</sup> Examples of legal, though unethical positions include the Taliban’s 2001 decision to destroy the Bamiyan Buddhas in Afghanistan.

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when stewardship is asserted unilaterally, rather than on a joint or collaborative model – it perpetuates the power imbalances that underpin, and are embodied in, the forms of cultural appropriation for which archaeologists are now called to account” (Nicholas and Wylie 2009, 18).

As noted above, archaeologists have relied on the aforementioned (ethical, legal, and epistemological) rationales to claim that the preservation of find-spot is a universal duty. If none of these provides sufficient grounds to privilege the archaeological position, provenience would seem to rest on shaky ground. The rest of this article is designed to replace this artificial foundation with one that can (hopefully) better hold the weight.

## **MARKETING SCIENCE: CHANGING PRACTICES AND MINDS**

As an archaeologist, this author admits that it can be difficult to recognize and respect the fact that artifacts may have legitimate value to a variety of groups. When Kersel studied different artifact-centric groups, she had similar feelings: “In order to engage and collaborate with all of the communities involved in the trade I had to acknowledge my own academic predispositions and to consider all interest groups on equal footing, moving beyond my entrenched notions of good guys and bad guys in the trade in antiquities” (Kersel 2011, 521). On the other hand, understanding different positions needs not lead to a slippery slope, ending with ‘anything goes.’ Even if the standpoint of the scientist drives the resultant science, this does not mean that the objects of study (here, archaeological remains) are totally pliable. Contemporary theorists have shown that the world is quite capable of asserting itself. “They make good use of the fact that, as enigmatic and richly constructed as archaeological evidence may be, it does routinely resist appropriation in any of the terms compatible with dominant views about the past. This capacity

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of the world we investigate to subvert our best expectations can force us to reassess not only specific claims about the past but also background assumptions we may not have known we held, assumptions that constitute our standpoint in the present” (Wylie 1997, 86). If the world can supply at least some limiting factors that can be used to reign in explanations, then there must be value in holding explanations to data collected from that world.

While Hodder is known for his integrative approach, he strongly denies that interpretive archaeology leaves the archaeologist as a neutral (read toothless) mediator. “It is important finally to reemphasize the need for archaeologists to take a stand in this process. It is not enough to argue that the archaeologist is a relatively powerless mediator who simply brings stakeholders together. It is not possible to be a neutral go-between. Archaeologists do have influence as professional experts, and they have to recognize that their actions as experts have effects on the world for which they are partly responsible. To claim a distanced ethical or scientific neutrality is to abdicate responsibility for the effects of one’s involvement in a public heritage. Taking an ethical path in archaeology involves making professional and personal choices” (26). Rather than relying on objectivity to give an archaeologist power over other stakeholders, Hodder believes that collaborative best practices can only occur when archaeologists take a strong position.

Hodder’s team at Çatalhöyük opens the site up to a large variety of groups, ranging from the scientific to the spiritual, engaging them in a truly collaborative fashion. That being said, Hodder holds his ground (so to speak) archaeologically, making sure that those data are understood and applied correctly. According to Hodder: “It is very important to recognize that the role of an archaeologist is not simply facilitating or providing information for stakeholder groups. This type of public engagement involves ethical choices and ethical decisions. You have to take a stand, you have to take a position. Archaeology is a hermeneutic procedure, but one of the

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positions I find myself in a lot is saying to people, ‘I don't think the data supports that’” (Schaffer et al., n.d.). By maintaining archaeological authority while giving outside groups the ability to contribute to the analysis of archaeological data, Hodder shows that it is possible to bring other stakeholders into the conversation (and to learn from them) without sacrificing his own integrity. Going even further, Hodder has used his power to bring groups to the table who might not be there otherwise, at times even arguing against his host government’s wishes. According to Hodder:” Yes, in fact, the government has asked us not to allow the goddess community to the site. But I do think archaeologists have power. In this case, I said I wanted the goddess community to come to the site and insisted that they be able to.” (Ibid.).

While terrestrial excavations have had a lot of time to adjust to the idea that different groups can lay claim to artifacts, in one arena, this idea is just moving from the theoretical to the practical. Underwater archaeology is a relatively new discipline, and new technologies are at the brink of allowing the public access to materials that have remained relatively undisturbed for centuries or millennia.<sup>15</sup> These technologies have made it possible for people to find archaeological artifacts, which they call underwater cultural heritage (UCH), to dive deeper and longer than ever to make contact with that UCH, whether in person or at the helm of a remotely operated vehicle.

Recognizing these issues, UNESCO’s 2001 *Convention on the Protection of the Underwater Cultural Heritage* and the convention’s *Annex: Rules concerning Activities directed at Underwater Cultural Heritage* attempts to set policies on the proper stewardship of UCH, asking “What rules ought to apply, and when, to archaeologists who work in waters that cross national and international jurisdictions? What responsibilities do archaeologists have to the modern political states that claim UCH as part of their national patrimony? What other obligations do

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<sup>15</sup> Undisturbed is truly a relative term, as these artifacts have been impacted (unintentionally but significantly) by a variety of human-centered activities, including trawling and laying underwater cables.

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they have to states that fund the upkeep and preservation of a site or to local communities who will be affected by an excavation or other UCH project?” (Greene et al. 2011, 312). In response to these questions, an international group of experts (including government representatives, legal experts, archaeologists, and ethicists) created a set of guiding principles and best practices for the handling of UCH that should be promoted, called the Penn Brock document.<sup>16</sup> This document focuses on a wide variety of issues, providing the participants (and hopefully the international community) some concrete suggestions on how to study UCH in a way that protects it, preserving it for future generations. To avoid confusion and competition, the writers of the Penn Brock document call explicitly (section 5) for “open, transparent **cooperation, collaboration, and involvement** between archaeologists, local, regional, and national communities; public institutions; other interested parties; and the international community of archaeologists (emphasis in the original).” Of course, moving from position papers to real change is the difficulty, whether on land or in the sea.

Unfortunately, calls for collaboration are nothing new. Archaeologists have had problems communicating with their host communities: “When considering community engagement and outreach in my period and region of the world traditional practice is the archaeological site tour and ‘goodie’ show...” (Kersel 2011, 520). Without question, archaeologists do their best to present their materials to the public in a way that is respectful and informative. However, regardless of good intentions, much of the information sharing that goes on in many archaeological projects is unidirectional: from the archaeologist to the community. This sharing usually takes place in the form of an artifact display and a site tour, where the local community is allowed to go on a particular day and time to ‘learn about’ their site. Clearly, this is not

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<sup>16</sup> <http://archaeological.org/fieldnotes/reports/3291>

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collaboration at all, and in cases where artifact displays are the draw, the displays might even encourage local digging. To combat extra-archaeological digging, archaeologists need to find a way to show how contextual data benefits both archaeologists and the local populace.

True collaboration can be difficult to achieve for a variety of reasons, not limited to the different levels of education and the different metaphysical and epistemological commitments of the archaeological and local communities. However, some argue that the hardships are not only worth the extra work, but that they result in better archaeology.

Some of the most creative of these initiatives are predicated on a commitment to involve Indigenous peoples directly in the practice of archaeology, a process that often significantly reframes and enriches archaeological practice. Descendant Indigenous communities often raise questions that archaeologists had never addressed, and their traditional knowledge is vital for understanding the material traces of antecedent land-use patterns, resource-harvesting practices, and a range of other more social aspects of past lifeways that may be found in the archaeological record; recent discussion of the relevance of oral history to archaeological practice is one especially fruitful area in which this cross fertilization is evident. (Nicholas and Wylie 2009, 18-19)

A number of deeply collaborative projects have been formed, and their directors have reported that these partnerships have led to different, better archaeology. One approach that has sought to explicitly embrace collaborative archaeology has been the "community archaeology" movement. Although its proponents vary in their vision for implementation of this concept, they agree on the need for collaboration. “Although there is an increasing amount of literature devoted to the development of 'community archaeology', the notion of collaborative practice in our discipline remains a vague concept, with many assuming that it refers simply to consultation with local communities. 'Community archaeology', however, goes far beyond that, incorporating a range of strategies designed to facilitate the involvement of local people in the investigation and interpretation of the past” (Moser et al. 2002, 220). Some community archaeology projects deny

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the primacy of archaeological data in telling the (or a) story of the past. For example, a group of archaeologists in northern Australia *share* the past with the indigenous Tiwi, a group that possesses its own culturescape (or communal cultural history). Rather than governing the site, archaeologists in this project “...also may come to understand that the sites they are investigating are indigenous sites to be researched and managed according to the wishes of the local community” (Fredericksen 2002, 290). Other community archaeology projects, such as the Community Archaeology Project at Quseir involve the community to benefit the populace (in recapturing their sense of community and history and in economically aiding them) and to improve archaeological practice. “Indeed, one of the primary aims of the Community Archaeology Project is to establish the extent to which community involvement in the archaeological investigations affects the research process itself” (Moser et al. 2002, 222).<sup>17</sup> Further opening the data to other perspectives, Nicole Beale argues that project directors should use the World Wide Web to disseminate data. In this way, interested parties (online communities), armed with information from enough projects can ‘reuse and remix’ (Beale 2012, 620) these data with other data sets, resulting in new analyses that go beyond the intentions of the original project directors. “This use of the web enables wider access to information, and this in turn creates the possibility for unanticipated interpretations of data” (Beale 2012, 621).

Even in cases where the stakeholders can be identified and included, artifacts may still disappear from sites in the dead of night. However, project level collaboration can empower the local community to shift its way of thinking about artifacts. “It is hoped that, if archaeologists can establish consultative, reciprocal and collaborative forms of practice as a disciplinary standard,

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<sup>17</sup> The URL listed on the article (which was to provide updates on the project) no longer exists. This link <http://www.southampton.ac.uk/~nes104/CAPQ.html> (accessed 1 August, 2013) has CAPQ updates through 2003.

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this will have a ‘trickle up’ effect in the public domain and market place where so much second-order appropriation of archaeological finds occurs” (Nicholas and Wylie 2009, 36-37).

Although in the best cases, collaborative projects would empower local communities, slowing the black market at the source, archaeologists can also make a case for collaboration by focusing solely on economics. “It is increasingly being argued that it should be an ethical prerogative of good archaeological practice to ensure that the cultural and thus economic value of excavated sites is maximized for public benefit by combining appropriate site conservation and presentation with curation and display of the associated artifacts” (Brodie 2010, 266). Brodie analyzes the comparative economics of illegal and legal excavations, pointing out that, in the former case, the moneys generated are concentrated in the country where the artifact lands after being exported from its place of origin. This can take the form of a piece generating income in a museum (by selling tickets) providing educational opportunities and material for scholarship, or through repeated sale, etc.) The subsistence diggers who originally excavated the materials get little and carry much of the risk. In the latter case, a larger economic benefit goes to the source country. In most cases, artifacts remain in the country where they were excavated, and these finds can then be used to set up archaeo-tourism, and they can sponsor research and media coverage.

Brodie (2010, 273) goes further, suggesting that museums wanting to display artifacts over an extended period, should rent (rather than borrow) those materials, as a way that local communities could benefit from the display of their artifacts. Silvia Beltrametti agrees and provides an argument for the viability of creating leasing agreements between countries.<sup>18</sup>

Beltrametti uses successful case studies of loans and cooperation agreements between museums

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<sup>18</sup> Although Beltrametti’s paper focuses on artifacts from Greece and Italy, the author hopes (2013, 207) that this idea will be studied in other contexts as well.



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and foreign governments to show that this idea could be packaged in a way that would be as attractive to museums as Brodie believes it could be to local communities. “With the help of this data, this Article aims to show that long-term leases could not only be an attractive addition to existing collecting strategies, but could also bridge some of the issues raised in the nationalist versus internationalist debate” (Beltrametti 2013, 206). On one side, those who believe that there is an obligation to share artifacts with the world would be able to do so. Incidentally, Beltrametti shows that cooperation agreements and leases would allow for increased movement of antiquities, sidestepping current legislation which makes all trade difficult, whether legal or not. On the other side, leases would directly aid in the preservation of the sites and communities now being ravaged by looting. Beltrametti’s proposal does not answer whether artifacts should be seen as the property of an existing nation or of humanity as a whole. However, her work allows both sides to declare a measure of victory: preserving find-spot, increasing international access, and helping people whose lives are impacted by the presence (and then absence) of those artifacts.

In areas where the aforementioned sorts of strategies will not work, others have suggested (admittedly non-ideal) ways to lessen the damage being done to the archaeological record by rewarding local diggers for participating in context-preserving digs, as opposed to rewarding them for hiding their sites from archaeologists. For instance, when looting in the Ghor Es-Safi region of Jordan overwhelmed the Jordanian Department of Antiquities (DOA) in the 1980s, Jordan instituted a buy-back strategy that it hoped would satisfy local diggers’ financial needs while protecting the provenience data that would have otherwise been lost as a result of their activities. “Information gathering often has an element of quid-pro-quo and, in order to establish better relationships with the looters and dealers involved with illegal activities, the initiators of this programme approached the Jordanian DOA about purchasing the looted archaeological

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material. In exchange for information, looters and dealers would receive financial compensation for the artefacts in tier possession – further reinforcing the exchange value of the artefacts. The archaeologists (under the auspices of the Jordanian DOA) would receive artefacts and associated contextual information” (Kersel 2012a, 265). Archaeologists assigned values to artifacts based on the contextual information they could document. More information would result in a better payout than would less (or no) information. Further, this project connected diggers directly with archaeologists. This program resulted in bringing many artifacts back to the academy (and Kersel mentions that many of them were subsequently published in academic journals).

England and Wales have also enacted a number of laws that are designed to use local pothunters as a sort of advanced survey team. “Both the Treasure Act [1996] and the Portable Antiquities Scheme [2001] were created partially through the archaeological community acknowledging that portable antiquities are a commodity for which members of the public will continue to search in their leisure time. Both archaeologists and pothunters value ‘portable culture’, and because they have worked together on this common interest many finds have been reported and documented in England and Wales since the Portable Antiquities Scheme (PAS) and Treasure Act were created” (Layton and Wallace 2006, 62). These laws allow people to look for metal artifacts with the aid of metal detectors, guaranteeing them payment if they report their finds to the government so that archaeologists can excavate (give provenience to) the material they have located.<sup>19</sup>

When Appiah refers to the black market dominated antiquities trade in Mali, he asks whether the government might mitigated the harm by teaching people to record an artifact’s context before excavating it: “Suppose they had required that objects be recorded and registered before leaving,

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<sup>19</sup> Suzie Thomas (2013) notes that legality does not equate with acceptance, as members of the archeological and various metal detecting communities continue to have a difficult relationship, despite the goals of laws like the PAS.

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and stipulated that if the national museum wished to keep an object, it would have to pay a market price for it, the acquisition fund being supported by a tax on the price of the exported objects. The digs encouraged by such a system would have been less well-conducted and less informative than proper, professionally administered digs by accredited archaeologists. Some people would still have avoided the rules. But mightn’t all this have been better than what actually happened?” (Appiah 2009, 77-78). Kersel describes a similar project in Northeastern Mali called CultureBank. CultureBank allowed people to ‘bank’ their finds in museums as collateral for low interest loans. “The exchange value is based on the information gathered as [art of the historical documentation process – the more information the greater the assessed value. If the exact find-spot of the archaeological item is recorded (if known) this raises the economic value of the item. If the piece has a long familial history of ownership this is also recorded and can enhance the objects’ economic worth” (Kersel 2012a, 266).

Although the aforementioned strategies might be seen in a positive (or more positive) light than the current status quo, because they allow for (and in some cases reward) local diggers, each of them would be, in their present form, very problematic to archaeologists. Although these programs might lessen the export of artifacts there is no reason to believe that buy-backs lessen activities by the local diggers. It might even increase as families use this (now) legal means to improve their financial situation. Further, by assigning prices to artifacts, archaeologists would be tacitly aiding the market by reinforcing the idea that artifacts should be seen as commodities.

## **MINDING THE COMMUNICATION GAP**

For collaboration between archaeologists and the public to work, archaeologists need to find

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ways to explain their goals and needs without coming across as oppressive or arrogant. This is no easy task, as the communication gap between these groups could not be wider. While local diggers may see a difference between the two groups’ methods (e.g. archaeologists work in clear, balk delineated, areas), they have a hard time understanding how their results differ from their academic competitors. In both cases, objects are unearthed with some fanfare, and they are then taken away from the area, never to be seen again.

In part, the problem is that archaeology is portrayed to the public by major motion pictures, television shows, museum exhibitions, and news stories. Not only do these programs misrepresent archaeology, they actually drive the antiquities trade, and further: “...those who support a position of free-trade in antiquities, regardless of the damage to the archaeological landscape, are waging a much more successful public relations campaign in the media than those in the realm of archaeology” (Kersel 2012b, 76). The public usually encounters artifacts in museums, where contextual information is rarely present and even more rarely highlighted, or by watching television shows that focus on the connection between artifacts and the market. In the words of one of these shows, “Spike TV travels around the country uncovering hidden treasure found in the backyards of everyday Americans in ‘American Digger.’ This new unscripted original series follows former professional wrestler turned modern day relic hunter Ric Savage, as he and his team from American Savage target areas such as battlefields and historic sites in the hopes of striking it rich and capitalizing on unearthing and selling bits of American history.”<sup>20</sup> In contradistinction, archaeologists primarily publish in peer-reviewed journals. Unfortunately, their stories rarely make it to the public, both because of their academic focus, and due to the subscription pay-walls of many academic journals. To make their case, perhaps

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<sup>20</sup>“About American Digger” online at <http://www.spike.com/shows/american-digger> (Accessed 1 August, 2013).

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academics need to find ways to better sell archaeology to the general populace.

In Cambodia, where the antiquities trade has been dominant for decades, Damien Huffer believes that he has a way to begin to connect with the public by using a medium already occupied by a number of video games that focus on the collection of archaeological antiquities. According to Huffer, local diggers ignore archaeologists (and the authorities) in part because they see these outsider groups not as moralists, but as competition. To correct this misconception, Huffer wants to update the public’s ideas about archaeology. Rather than attempting to give the entire lay public of Cambodia an undergraduate level education on archaeological theory and methodology, Huffer (2009) has responded with an appeal for ‘edutainment.’ His *Looter!* is an interactive, *flash* based computer game (in development as of 2009). His goal is to use gaming to make the case for archaeological excavation. “Through introductory and interstitial animated “cut-scenes” and two levels of game play, the player will not only begin to understand what is known about Cambodia’s late prehistory, but will also comprehend the damage that looting does to all involved, and conversely, the benefits to be gained from scientifically sound excavation” (Huffer 2009, 92). Huffer, like any ‘serious game’ developer, will need to both capture the attention of the gamer and teach him/her in the process of play if *Looter!* is to succeed.<sup>21</sup> Whether *Looter!* can compete with *Tomb Raider* is an open question, but Huffer’s strategy is laudable.

## CONCLUSION

While this article can propose no solution to the ‘antiquities problem.’ Hopefully it will aid in reframing the discussion in ways that might make individual (local) solutions possible for people

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<sup>21</sup> Charsky 2010 explains some hurdles that games developers face in moving from entertainment to edutainment.

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planning new projects, as well as for governments and other concerned stakeholders in areas where significant trafficking is occurring. Archaeologists have been taught to view theirs as the only ethical (and legal) stance in a world full of unfettered greed and immorality. As an archaeologist, understanding that reasonable people can disagree with what has been a main argument made by archaeologists, that preserving provenience is universally desirable, was personally shocking. However, this shock was a necessary precursor to being able to think about this problem productively. Even if the result is a muddy landscape, this new starting position will be more productive than the status quo. From the case studies referenced above, it is clear that many archaeologists have already decided, whether for their own or for mutual benefit, to work with communities. However, to have a serious impact on the antiquities market, archaeologists need to continue to step up their game in a number of ways, rethinking (and continually reevaluating) their own practices and reaching out to other stakeholders.

Of course, none of the suggestions made in this paper are meant as a panacea. For one thing, different projects and project directors will have different research needs, different questions to answer, and different relationships to other stakeholders. For another, some of the proposed ‘solutions’ may be as problematic as the current landscape. Finally, regardless of our best efforts on the supply side, the black market will continue to exist so long as there is a demand for artifacts. However, if archaeologists can successfully connect with local communities, they may be seen as partners instead of competitors. Further, by hearing the needs of other stakeholders, they will be able to more effectively argue that stratigraphic excavation is better for the local populace. If this conversation becomes a part of the archaeologist’s toolkit, this author has reason to believe that the market in provenience preservation will respond bullishly, and the black market will turn somewhat more bear.

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