



The circulation of Tibetan works of art: some remarks on the Italian national law and the international market

Massimiliano A. Polichetti

The illicit trade in art and cultural artifacts has increased dramatically in recent years. This includes theft of individual works of art, illegal export of objects protected by international laws, and pillaging of archaeological sites. Art theft is therefore a global problem requiring cooperation at all levels of law enforcement. Coming closer to the topic of this paper, Tibetan antiques have become extremely valuable objects on the international art market. At the last IX IATS held in Leiden (2000), scholars adopted a resolution regarding the dangerous and damaging traffic in Tibetan art. Many collectors argued that they are saving Tibetan culture by buying artefacts that are at risk of destruction in Tibet, however it was desumed that the high prices paid by collectors stimulates the continuing thefts. The legal issues surrounding the trade in these works are complex. Chinese law dictates that no object more than 180 years old, or deemed important to cultural heritage, may be taken out of the country. But a piece can be exported if the Chinese Cultural Affairs Bureau determines that it is neither a prohibited antique nor a cultural relic. This is how most legitimate dealers operate, but government officials can be unfortunately receptive to compromises. The Chinese government, pushed by world opinion, has in recent years tried to reduce the issue, but the trade has merely been diverted to underground channels. Museum collections of Tibetan art are furthermore reported to be growing rapidly through purchases and donations, with not many questions being asked about provenance of the objects acquired. Since they might be lost if returned to occupied Tibet, the United Nations' treaties that require the repatriation of stolen cultural treasure have been considered inapplicable to them. Notwithstanding, in April 1998 the FBI returned a statue that had been stolen in 1993 from TAR. On this ground, the paper will present an overview of the main international Laws and Conventions (the 1970 UNESCO Convention, the Museum of the University of Philadelphia Declaration of 1970, the Code of Professional Ethics of the International Council of Museums, the 1995 UNIDROIT Convention, the 1996 Treasure Act for England and Wales, the European Council Regulation on the export of cultural goods, the Cambridge Resolution, and so on) along with a survey of the Italian Law, that is the most ancient juridical frame on this issue (the first

Superintendent for the Rome's Antiquities was Raffaello Sanzio): the 1939 Law n. 1089, the 1998 organic arrangement of this fundamental act, the 1998 Law n. 88 and others among the foremost; mentions will also be made with regards to the Italian Ministry for Culture and its institutional activities, rooted in the Italian Constitution, of acquisition of Tibetan and Himalayan single items and collections as well, direct preservation of works of arts, organization of seminars. A presentation also will be made of the Italian Army Department (Carabinieri) with direct operative competence on this matter and its international links. Helping what once was Tibet to maintain and preserve his cultural patrimony is decidedly complex and not susceptible to easy answers. Assuming that the international trade in antiquities cannot be stopped merely by regulations prohibiting their exportation, and given that it is unlikely that Chinese government could smother the incentive to send antiquities out of the country clandestinely, a more wide approach is necessary. The real goal should be to establish some degree of control over what leaves the Himalayan countries and to get archaeology and history of art students into that areas to work on the many sites.