PREVENTION AND COMBAT AGAINST ILLICIT TRAFFIC OF CULTURAL GOODS IN SOUTH AFRICA

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1. INTRODUCTION

- Management of cultural property is legislated by the National Heritage Resources Act, 25 of 1999.
- South African Heritage Resources Agency (SAHRA) is the statutory body mandated to identify, manage, conserve, protect and promote SA heritage resources that form part of the National Estate.
- Department of Arts and Culture (DAC) is the National Department responsible for the protection and management of heritage resources.

Some measures are in place to prevent theft of heritage objects and illicit trafficking.

However, some challenges remain such as a lack of crime statistics that would indicate the extent of heritage related crime in SA.

When heritage objects are stolen, police report it as a normal theft. No distinction is made between theft of an item, such as a household item and a heritage object.

Therefore, it is almost impossible to ascertain how far reaching these crimes are.
2. RATIFICATION OF CONVENTIONS


• Currently, in the process of ratification of the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Property.

3. PUBLIC PERCEPTION OF ILLICIT TRAFFIC IN SOUTH AFRICA

• General public are informed of crimes via the media.
• This is only a fraction of true number of thefts.
• Public is therefore unaware of the extent of heritage related crime and how serious this problem really is.
• Furthermore, some custodians do not report thefts due to fear of being perceived as having poor security and therefore as being “soft” targets. In addition, they are concerned about the impact on donor relations if it is revealed that objects have been stolen from the museum/institution concerned.
4. NATIONAL LEGISLATION

• Cultural property is protected by the National Heritage Resources Act of 1999
• Regulations define types of objects to be protected.
• Export is controlled through requirement of permit from SAHRA.
• In addition, the Act cites the SA Police and Custom Officials as Heritage Inspectors.
• This implies that they must be in a position to identify a heritage objects about to be exported and confiscate if a permit is not available.

4. NATIONAL LEGISLATION (cont.)

• One challenge of this system is that, in the event of refusal of a permit, the applicant may require the compulsory purchase of the object.
• In such a case, if SAHRA or another heritage institution is not in a position to purchase the object, a permit must be issued.
• The challenge with this is an obvious lack of funds, as the costs of either purchasing a large number of objects or an artwork by Irma Stern or Gerard Sekoto whose works average between R2 million and R40 million would be extremely high.
4. NATIONAL LEGISLATION (cont.)

• The Act also controls the import into South Africa of any foreign cultural property.
• These objects must enter the country through a customs port of entry and an export permit or other permission issued in the country of origin must be produced.
• If South Africa has entered into a cultural property agreement with another country, foreign cultural property that has been illegally exported from that country may also not enter South Africa.
• Contraventions of these sections in the National Heritage Resources Act may result in a fine or imprisonment, or both.

5. CONTRIBUTORS TO ILLICIT TRAFFICKING

• Possible contributors to illicit trafficking in cultural goods include:
  o Colonialism
  o Theft from museums
  o Theft from sites, which include shipwrecks, archaeology, meteorites and fossils.
5. CONTRIBUTORS TO ILLICIT TRAFFICKING (cont.)

• Colonialism has seen the protection of objects associated with the interests of a particular community. Many objects, which were not legally protected were freely pillaged and removed and eventually found their way to museums and private collections in other countries.

5. CONTRIBUTORS TO ILLICIT TRAFFICKING (cont.)

• Thefts from museums are a major challenge.
• In many cases, such objects end up at international auctions. It sometimes happens that these objects are bought by South Africans who returned them to the relevant museum.
• However, if these objects are sold on good faith basis to international buyers, it is more challenging to get the object back, as the buyer has the right to request reimbursement from the museum. If the museum do not have the money, or can not find a sponsor, they may have to write it off as a loss.
5. CONTRIBUTORS TO ILLICIT TRAFFICKING (cont.)

- Thefts from sites such as archaeological and palaeontological sites are not common, although the lack of statistics may cause an under-estimation of such occurrences.
- The theft of meteorites and objects found on shipwrecks are of major concerns. Objects such as coins, ceramics and other collectibles, found on shipwrecks, are difficult to trace.
- This is compounded by the ways in which these objects are smuggled out of the country, such as the placing of coins in wallets, which looks to the x-ray machines at airports as normal contemporary money.

6. CURRENT SITUATION

- According to Bernadine Benson, Senior Lecturer: Forensic Investigations Department of Police Practice, University of South Africa, there is a definite move to steal Chinese ceramics as there has been several incidents in SA in just the last 6 months.
- Attempts are being made through the National Forum for the Law Enforcement of Heritage related matters to get Interpol to issue a purple notice to alert museums about this.
6. CURRENT SITUATION (cont.)

• Benson further states that vigilance is important when groups enter a museum because some of them would keep the curator busy while others wander around.
• This modus operandi has manifested twice in SA in the past 2 months resulting in three very valuable heritage related artworks being stolen (2 Hugo Naude’s and a Boonzaaier).
• It has not been established if the same criminals were responsible but the modus operandi was similar.

6. CURRENT SITUATION (cont.)

The good news is that Interpol has now opened their Stolen Works of Art Database to all stakeholders/traders in order to check for stolen objects. Simply, go to www.interpol.int and apply in order to obtain access and state why access is required.
7. NATIONAL COOPERATION

• National Forum for the Law Enforcement of Heritage related matters (NALEH) was established to create a platform for a working relationship between law enforcement and heritage officials.

• This allows for the dissemination of information and the sharing of ideas regarding the protection of cultural property.

• Members of NALEH include SAPS, DAC, Interpol, SAHRA, SAMA, ICOM-SA, Customs and UNISA.
7. NATIONAL COOPERATION (cont.)

• Training seminar at the University of Pretoria.
• Police officers are made aware of importance of combating heritage related crimes.
• Trained in identification, handling and storing of heritage objects.
• List of contact details of experts distributed to police.
• This is to ensure that, should police find a possible stolen heritage object, they could be in immediate contact with an expert who could identify the object and advise on correct handling and storage.

7. NATIONAL COOPERATION (cont.)

• Other initiatives include a brochure, containing reporting procedures.
• The purpose of this brochure is to create awareness of reporting procedures within the heritage community.
• This will ensure that museums and other custodians of heritage objects follow correct procedures after thefts, which could expedite police processes.
• Higher possibility of finding stolen object before it is destroyed or smuggled out of the country.
• NALEH is also developing an online newsletter to broaden awareness.
7. NATIONAL COOPERATION (cont.)

• Since its inception in 2005, NALEH has had a number of success stories.
• In one case, someone saw a familiar object on the poster and contacted the police.
• Due to NALEH, heritage officials have been almost immediately informed that Interpol has issued a world-wide notice that online sales of stolen cultural items are on the increase. They have also included some recommendations on how to minimise this risk.

• In another case, a police officer who had attended the training at the University of Pretoria, recognised a stolen item as a bronze sculpture with heritage value (the item was initially recorded as a bronze scrap metal object to the value of approximately R40 000). The police subsequently had the sculpture re-evaluated and it was worth R1.2 million.
• Because of this, the thief was given a much longer jail sentence due to the higher monetary value of the stolen object.
8. INVENTORIES OF COLLECTIONS

• Most museums establish and update their own inventories independently.
• However, a major challenge is the lack of a centralised national database.
• Three critical aspects to prevent illicit traffic have been identified in 2006 at an Interpol meeting.

8. INVENTORIES OF COLLECTIONS (cont.)

• These aspects are:
  o The systematic establishment and updating of inventories of collections by cultural institutions based on the international Object ID system.
  o Statistical monitoring and evaluation of thefts by law enforcement agencies
  o The sharing and dissemination of information between the relevant government bodies and law enforcement agencies as well as the broader public.
8. INVENTORIES OF COLLECTIONS (cont.)

• SAHRA is in the process of identifying and inventorising state owned collections and objects, especially focussing on those at risk.
• A medium to long term outcome of this project is to establish the South African Heritage Resources Information System (SAHRIS), which will serve not only as a digitised inventory of cultural heritage resources, but also as a management tool to effectively and efficiently monitor cultural property.
• This system will allow SAHRA to more effectively assist other heritage and cultural agencies to manage the heritage resources in their care.

9. CASE STUDY

• A number of years ago, SAHRA was informed that the police has confiscated some objects from a dealer in Cape Town believed to have Nigerian connections.
• Iziko (a group of museums situated in Cape Town) subsequently assisted with the identification of the objects as well as providing temporary space to store the items.
• The matter was reported to the Minister of Arts and Culture, who in turn reported it to his counterpart in Nigeria.
9. CASE STUDY (cont.)

- National and international expert opinions were solicited, with the outcome that all the objects, except three, were fakes.
- Although the objects were not confiscated from a customs point of entry, it appeared that they were foreign and intended for sale.
- The challenges in this case included the fact that no designated storage facilities, conforming to heritage standards are available in the event of objects being confiscated.
- Additionally, the museum where the objects was temporarily stored did not have available storage space for objects not budgeted for. This had therefore created some problems for them.

9. CASE STUDY (cont.)

- Although the case was not seen as strong enough to be pursued by a court of law, this is perceived as a success story.
- There was cooperation and commitment from all the parties involved, who had dealt with the matter in an integrated and coordinated manner.
- In addition, many lessons were learnt in the process that would stand SAHRA in good stead in future.
10. CONCLUSION

• The National Heritage Resources Act of 1999 enforces a management system to protect South Africa’s cultural property.
• This Act also controls export of this property as well as import of cultural property from foreign states.
• Although a number of challenges exist in the protection of cultural property against theft and illicit trafficking, we believe that we are on the right track.
• We have created a forum to ensure cooperation between the relevant authorities and thus far, we are experiencing some positive results.

10. CONCLUSION (cont.)

• Additionally, we are in the process of developing a centralised national database, which will ensure a more effective and efficient way of managing and monitoring our cultural property.
• Our involvement in international conventions will create networks which may make it easier to return some objects that left our country illegally.
• Lastly, our involvement in forums such as this conference will create opportunities from which we will learn from other Southern African countries, create networks and thereby strengthen our systems in order to protect our cultural property against theft and illicit trafficking.
Thank You

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