

Dear members of the AIP,

At our last Assemblée Générale, in Ann Arbor on 4 August 2007, the membership endorsed the following resolution presented by the Comité International de Papyrologie:

“The Comité International de Papyrologie proposes the establishment of a working party to report with recommendations to the next Congress in three years time. We propose that the working party consist of: R. BAGNALL, G. BASTIANINI, A. MARTIN, A. BOWMAN, J.-L. FOURNET, C. RÖMER and P. SCHUBERT (with powers to co-opt). The terms of reference of this working party should be the following: To study the complex legal, ethical and scholarly questions connected with the commerce in papyri and to make recommendations to the Association Internationale de Papyrologues on measures that may appropriately serve the purposes of scholarship, support the development of papyrological studies in Egypt and further the preservation of the documentary heritage of Egypt and other countries.”

The working party subsequently co-opted TODD HICKEY and ROSARIO PINTAUDI as additional members. It has communicated by email during the past 14 months and has held one meeting, in Vienna on 4 June 2008. That meeting led to agreement on a set of proposals and standards, and also to an agenda of both further study and specific practical steps. I give here a copy of the minutes of that meeting.

Minutes

The Working Party's terms of reference from the Comité International de Papyrologie, as approved by the Assemblée Générale of 4 August 2007, are “to study the complex legal, ethical and scholarly questions connected with the commerce in papyri and to make recommendations ... on measures that may appropriately serve the purposes of scholarship, support the development of papyrological studies in Egypt and further the preservation of the documentary heritage of Egypt and other countries.”

Those terms of reference reflect a fundamental understanding of the nature of the AIP's interest in these questions, an understanding which the Working Party shares. Our Association is a scholarly society, and its proper sphere is the scholarly concerns of its members and the advancement of knowledge in the relevant scholarly domains in which they work. Our analysis of the questions referred to the Working Party has therefore been framed on the basis of these considerations. We propose as our basic goals that the surviving papyrological record of antiquity should be (1) universally available, (2) able to be studied by all persons to the extent and in the ways that their preparation and knowledge permit, and (3) archaeologically contextualized as far as possible to allow a full understanding of the original place of these texts in their ancient settings. We have used the guiding principle that our interest is solely in developing recommendations for future action, not in judging past actions.

Our recommendations to the Assemblée Générale of 2010 will have four parts. As these develop, they will be placed on the AIP web site for comment from the membership before the Working Party produces the final version. The present document is version 1 of our conclusions and recommendations. The Working Party anticipates meeting next in Paris in spring, 2009.

1. Legal aspects

The legal situation governing commerce in papyri is complex. Because the question at a practical level overwhelmingly concerns Egypt, we refer specifically to it in what follows, but other countries where papyri and ostraca may be found have comparable legislation. In Egypt, the governing law is that of 6 August 1983, which took effect on 1 January 1984. It is expected to be revised, but the date and final content of such a revision are as yet unknown.

Virtually all countries in which AIP members live, work, and hold citizenship are signatories to the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, dated 14 November 1970. This convention has been ratified at different dates by the various signatory parties, but it does not itself constitute enforceable law in individual countries. Rather, the law in force depends on national implementing legislation, and, in the case of the United States, presidential action establishing bilateral agreements. National approaches to antiquities law have diverged very greatly. The actual laws affecting the trade in papyri in effect in various countries thus differ considerably.

The Working Party **(1) recommends that the AIP create a section of its web site containing copies of as many relevant legal texts as possible, or links to those texts elsewhere on the Web, and it (2) urges its membership to familiarize itself with Egyptian law, the UNESCO convention, and all relevant legal texts of their own country or countries.** It further **(3) expects all members to observe scrupulously not only the laws applicable to them in their home countries, including those implementing the UNESCO convention, but also the laws of Egypt and other countries from which ancient textual artifacts come.**

2. Access to papyri and ostraca

The AIP's membership includes most of those with advisory or decision-making roles in respect to papyrus collections held by public institutions (in which we include universities, museums, and libraries open to a larger or smaller public, whether funded by the state or from private sources). For this reason, and because such collections have historically and collectively been the largest acquirers of papyri, the Working Party has formulated a set of recommendations aimed at realizing the goal of the widest possible access to papyrological texts. We understand "access" here to concern both of our first two goals; that is, that published papyri should be as widely accessible to all interested persons as possible, and that all persons capable of editing papyri should have the ability to work on unpublished texts and thus contribute to the growth of knowledge about the ancient world. These recommendations are aimed at creating a far greater equality of access to opportunities to contribute to scholarship than exists today, because we believe that the inequalities prevalent today are a significant contributing factor in supporting the continued existence of an illegal commerce in papyri.

In keeping with these principles, the Working Party recommends:

(4) that all papyrus collections should work as expeditiously as their resources permit to make their collections available on the Web in digital form;

(5) that all images of papyri and ostraca put on the Web should be governed by general licensing principles allowing them to be reproduced for scholarly and non-commercial use without the need for specific permission or the charging of fees;

(6) that all collections should adopt policies concerning the publication of unpublished papyri that (a) limit individual exclusive publication rights to a period of five years and (b) make unreserved and unpublished papyri otherwise available to any qualified prospective editor;

(7) that any public collection intending to deaccession all or part of a collection of papyri should transfer or sell papyri only to another public collection where it will be available for education and research.

3. Papyri and Papyrology in Egypt

The Working Party believes that much of what needs to be done to discourage the illegal trade in papyri will involve positive actions aimed at improving the possibilities for papyrological scholarship in Egypt. There are four principal bases for this view: (1) The difficulty of doing papyrological research in Egypt can too readily be used as a justification for the continued constitution of collections in countries with better working facilities; (2) a large part of the stock of unpublished papyri and ostraca lie in museums and antiquities magazines in Egypt, where they are not always kept in good conditions, properly conserved, and available for scholarly research; (3) the only certain means of reducing the prevalence of illegal and uncontextualized excavations for papyri in Egypt is to carry out legal, scientific excavations, as urged by Claudio Gallazzi at the Copenhagen Congress of Papyrology in 1992; and (4) only a complete inventory of papyri in magazines and museums in Egypt can make it possible to securely identify material stolen from such facilities when it is illegally offered for sale, as has sometimes happened.

The full development of a strategy for papyrology in Egypt will require the involvement of our Egyptian colleagues, and the Working Party intends to engage during the coming year in conversations aimed at eliciting such involvement. We offer here a set of preliminary recommendations for further discussion:

(8) that the AIP should launch, in collaboration with Egyptian colleagues and the Supreme Council for Antiquities, a 21st-century equivalent of the International Photographic Archive of Papyri, aiming to gather or create digital images and metadata for all papyri in Egyptian museums and magazines, whether coming from formal excavations or not, and to conserve these collections;

(9) that the AIP should explore with all relevant parties the possibilities for the creation of an Egyptian National Center for Papyri to be located in Cairo, which could help serve the research needs of Egyptian and non-Egyptian scholars for access to scholarly information and for facilities for scholarly interchange of all kinds;

(10) that the AIP should explore possibilities for helping the Egyptian Museum improve facilities for storage and conservation of papyri in its collections; and

(11) that the AIP urge its members to consider seriously the possibility of excavating sites in Egypt where written texts may be found, particularly where these sites are endangered by rising ground water or property development. Material discovered in excavations should be accorded a longer period of exclusive publication rights reserved to the excavators than the five years recommended for papyri in museum and library collections.

The Working Party also believes that it would be desirable to have a group or organization in papyrology capable of responding to the episodic need for emergency excavations where sites that may contain written texts are imminently threatened with destruction. It plans to discuss this

question further. It has agreed that the Geneva congress should include a presidential panel on the excavation and survey of Graeco-Roman sites in Egypt since 1992, with opportunities for reflection on papyrological involvement in fieldwork in Egypt.

4. Papyrologists, the Commerce in Papyri, and Papyri of Illegal or Doubtful Provenance

It is the impression of the Working Party that at present there is little commerce in papyri in Egypt itself and that little or nothing is available there for sale. What papyri are available for sale are found principally in markets in Europe and the United States.

The complex realities of situations in which papyrologists may find themselves in dealing with papyri and ostraca illegally discovered and/or exported from their country of origin make it very difficult to formulate specific and rule-based policies about how papyrologists should act in such situations. Identifying, inventorying, authenticating, and dating objects of doubtful provenance all raise ethical questions, which are above all focused on the act of undertaking publication. It is particularly difficult to formulate general principles for balancing the sometimes conflicting imperatives of making scholarly information public and discouraging the illicit commerce in antiquities. The Working Party believes that for the most part the AIP should concentrate its efforts in this domain on encouraging its members' ethical reflection and explicit attention to issues of provenance, rather than broad mandates. The Working Party's final report will contain a more detailed discussion of this subject and on the question of where the burden of proof should be placed. For the present, it recommends

(12) that papyrologists who identify material for sale or held in private collections as having been stolen from Egyptian museums or magazines should so advise its owner and urge the owner to return it to the Egyptian authorities. Papyrologists should not assist in the marketing of such material in any way.

(end of the minutes)

In fulfillment of one of the decisions of this meeting, we are providing here links to a variety of resources for study of the larger issue of the commerce in "cultural property" or "cultural objects". We do this not in order to endorse any of the documents to which links are provided, except as may be indicated in the report of our meeting, but so that members may have easy access to the documents to which we refer (and which were cited by the speakers in the session on this subject at the Ann Arbor congress) and to a range of other information on the subject. One of the working party's strongest convictions as a group is that the legal and ethical issues at stake are often complicated, and not all situations can be met with a simple list of injunctions. It is each member's task to weigh the considerations both of law and of professional ethics that may be involved in a particular decision, and these resources are intended to help nurture those deliberations. The members of the working party themselves hold diverse views about many subjects treated in these documents.

Follow-up work on other recommendations of the 4 June meeting is in progress, particularly the possibility for a digital archive of Egyptian collections and an Egyptian national center for papyri, and I hope to have additional reports to post during the next six months. In the meantime,

I will be happy to have any comments from members on any aspect of the working party's discussions.

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President
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WEB RESOURCES ON CULTURAL PROPERTY, ANTIQUITIES LAWS, AND RELATED SUBJECTS

1) UNESCO Cultural Heritage Laws Database

This is a database of resources drawn from many countries and is the easiest route to discover for a given country what laws apply:

http://portal.unesco.org/culture/en/ev.php-URL_ID=33928&URL_DO=DO_TOPIC&URL_SECTION=201.html

2) UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970).

This is the fundamental document referred to in literature on cultural property, implemented in different fashions in various countries:

http://portal.unesco.org/en/ev.php-URL_ID=13039&URL_DO=DO_TOPIC&URL_SECTION=201.html

3) UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects

<http://www.unidroit.org/english/conventions/1995culturalproperty/main.htm>

4) Egyptian law 117 of 1983 (English translation):

unesdoc.unesco.org/images/0006/000666/066629eo.pdf

5) US Convention on Cultural Property Implementation Act:

<http://exchanges.state.gov/culprop/97-446.html>

6) US Code, Title 18, Section 2314 (National Stolen Property Act):

http://caselaw.lp.findlaw.com/cascode/uscodes/18/parts/i/chapters/113/sections/section_2314.html

7) UK Dealing in Cultural Objects (Offences) Act 2003

(attached: dca.pdf)

8) Interpol stolen works of art FAQ

<http://www.interpol.int/Public/WorkOfArt/woafaq.asp>

9) American Society of Papyrologists Resolution (adopted June, 2007)

<http://www.papyrology.org>

10) The laws for various Middle Eastern/North African nations have now been posted at:

<http://tebtunis.berkeley.edu/laws/>

11) Laws of European countries

Austria

- 1999, **Bundesgesetzblatt für die Republik Österreich** (German)

http://www.unesco.org/culture/natlaws/media/pdf/austria/austria_loi19_08_1999_ger_orof.pdf

Belgium

- 1999, **Décret relatif à la conservation et à la protection du patrimoine. Livre III - Disposition relatives au patrimoine.**

Titre 1er - Généralités

<http://www.skene.be/RW/Loi/LOI0106.html#Anchor-47857>

Titre II - De la protection, de la prévention, de la restauration

<http://www.skene.be/RW/Loi/LOI0107.html>

Titre III - Du petit patrimoine populaire

<http://www.skene.be/RW/Loi/LOI0108.html>

Titre IV - De l'archéologie

<http://www.skene.be/RW/Loi/LOI0109.html>

- 2003, **Monuments, Sites et Patrimoine archéologique** (French)

http://www.unesco.org/culture/natlaws/media/pdf/belgium/belg_lois_monuments_fretof.pdf

Denmark

- 2001, **Museum Act N. 473** (English)

http://www.unesco.org/culture/natlaws/media/pdf/denmark/denm_museum_act_473_engtof.pdf

- 2001, **Act N. 480 on listing buidlings and preservation of buildings and town environments** (Danish)

http://www.unesco.org/culture/natlaws/media/pdf/denmark/denm_law_480_danorof.pdf

Finland

- 1999, **Act on adopting certain regulations of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 875/ 1999** (*inter alia*; English)

http://www.unesco.org/culture/natlaws/media/pdf/finland/fi_actconventionillicitrsfer1999_engtof.pdf

-1999, **Decree on Restrictions to the Export of Cultural Objects 189/ 1999** (English)

http://www.unesco.org/culture/natlaws/media/pdf/finland/fi DECREERESTRICTEXPORT1999_engtof.pdf

- 1999, **Act on Restrictions to the Export of Cultural Objects 115/1999** (English)

http://www.unesco.org/culture/natlaws/media/pdf/finland/fi_actrestrictexport1999_engtno.pdf

France

- 1997, **Decree n°97-286, 25 March 1997, related to the Restitution of Cultural Property that have illicitly left the territory of an European Community State member** (French)

http://www.unesco.org/culture/natlaws/media/pdf/france/fr_decree97286_freorof.pdf

- 1997, **Decree n°97-435, 25 April 1997, on the convention concerning measures to be taken in order to prohibit illegal importation and exportation and illicit traffic of cultural properties** (French)

http://www.unesco.org/culture/natlaws/media/pdf/france/fr_decret_97_435_freorof.pdf

- general information and links to more regulations:

http://www.archeodroit.net/html/jdc_regl.html

Germany

- general information

http://www.european-heritage.net/sdx/herein/national_heritage/voir.xsp?id=intro_DE_en

- other: “German Laws governing Cultural Heritage Protection”, List of Documents issued by the German National Committee for Monument Protection, Volume 54, 3. Edition, Bonn 1997, ISSN 0723-5747

Greece

- 2002, **On the Protection of Antiquities and Cultural Heritage in General** (English)
http://www.unesco.org/culture/natlaws/media/pdf/greece/gre_law_3028_engtof.pdf

Italy

- 2004, **Legislative Decree no. 42 of 22 January 2004 - Code of the Cultural and Landscape Heritage** (English)
http://www.unesco.org/culture/natlaws/media/pdf/italy/it_cult_landscapeheritge2004_engtof.pdf

Ireland

- 1994, **National Monuments (Amendment) Act** (English; includes artefacts)
http://www.unesco.org/culture/natlaws/media/pdf/ireland/ie_natmotsamdment1994_engorof.pdf

Luxembourg

- 2004, **Concernant l'Aménagement Communal et le Développement Urbain** (French)
http://www.unesco.org/culture/natlaws/media/pdf/luxembourg/lu_loi_amenagementcommunal_developpementurbain_2004_freorof.pdf

Norway

- 2002, **Regulations on the Return of Stolen and Unlawfully Exported Cultural Objects** (English)
http://www.unesco.org/culture/natlaws/media/pdf/norway/norway_stolen_cultural_objects_2002_engtof.pdf

- 2007, **Regulations on the Export and Import of Cultural Objects** (English)
http://www.unesco.org/culture/natlaws/media/pdf/norway/norway_exportimport_culturalobjects_2007_engtof.pdf

Netherlands

- 1985, **Cultural Heritage Preservation Act** (English)
http://www.unesco.org/culture/natlaws/media/pdf/netherlands/netherlands_loi49_amended_01_02_1984_eng_tno.pdf

- 1988, **Monuments and Historic Buildings Act** (English)
http://www.unesco.org/culture/natlaws/media/pdf/netherlands/netherlands_loi638_23_12_1988_eng_tof.pdf

Poland

- 2003, **the act of 23 July, 2003 on the protection of monuments and the guardianship of monuments** (Journal of Laws No 162, Item 1568 with later additions)
No URL available.

Portugal

- 1997, **Decree law N. 164/97 on Underwater Archaeological Activity** (Portuguese)

http://www.unesco.org/culture/natlaws/media/pdf/portugal/portugal_decree_law_16497_underwater_archaeological_activity_pororof.pdf

- 1999, **Decree law N. 270/99 on Archeological Works** (Portuguese)

http://www.unesco.org/culture/natlaws/media/pdf/portugal/portugal_decree_law_16497_underwater_archaeological_activity_pororof.pdf

- 2001, **Law 107/01 on Cultural Heritage** (Portuguese)

http://www.unesco.org/culture/natlaws/media/pdf/portugal/portugal_law_1072001_law_cultural_heritage_pororof.pdf

- 2006, **Decree 19/2006 on classification of goods of national interest** (Portuguese)

http://www.unesco.org/culture/natlaws/media/pdf/portugal/portugal_decree_192006_classification_goods_national_interest_pororof.pdf

Spain

- 1985, **on the Spanish Historical Heritage** (English)

http://www.unesco.org/culture/natlaws/media/pdf/spain/spa_law_16_1985_engtof.pdf

- 1991, **ROYAL DECREE implementing the ninth additional provision of Law 16/1985, on State guarantee for works of cultural interest** (English)

http://www.unesco.org/culture/natlaws/media/pdf/spain/spa_royaldecree_1680_1991_engtof.pdf

Sweden

- 1988, **Heritage Conservation Act n°950 of 1988; (followed by) Regulations on permits for the export from Sweden of certain cultural older goods** (English)

http://www.unesco.org/culture/natlaws/media/pdf/sweden/se_achertgeconservregul1988_engtno.pdf

Switzerland

- 2003, **Federal Act on the International Transfer of Cultural Property** (English)

http://www.unesco.org/culture/natlaws/media/pdf/switzerland/ch_actintaltrsfertcultproties2005_engtno.pdf

- 2005, **Ordinance on the International Transfer of Cultural Property** (English)

http://www.unesco.org/culture/natlaws/media/pdf/switzerland/ch_ordnceintaltrsfertcultproties2005_engtno.pdf

United Kingdom

- 1980, **National Heritage Act** (English)

http://www.unesco.org/culture/natlaws/media/pdf/gb/gb_nationalheritage1980_engorof.pdf

- 1994, **Return of Cultural Objects Regulations** (English)

http://www.unesco.org/culture/natlaws/media/pdf/gb/gb_returnculturobjectsregulations1994_engorof.pdf

- 1995, **Historic Monuments and Archeological Objects Order (Northern Ireland)** (English)
http://www.unesco.org/culture/natlaws/media/pdf/gb/gb_histmonts&archaeolobjets1995_engorof.pdf

- 2003, **Export of Objects of Cultural Interest (Control) Order 2003** (English)
http://www.unesco.org/culture/natlaws/media/pdf/gb/gb_exportobjculturalinterest2003_engorof.pdf

- 2003, **Dealing in Cultural Objects (Offences) Act 2003** (English)
http://www.unesco.org/culture/natlaws/media/pdf/gb/gb_dealingcultobjsoffences2003_engorof.pdf