



A Review Towards Global Crime Governance in Overcoming Trafficking in Cultural Property

Iwan Sulistyono¹✉, Sari Mulyani³, Selvi Diana Melinda², Gita Karisma¹,
and Hasbi Sidik¹

¹ International Relation Department, Lampung University, Lampung, Indonesia
{iwan.sulistyono,gita.karisma,hasbi.sidik}@fisip.unila.ac.id

² Governance Institute of Home Affairs Institute of Home Administration, Jakarta & Pontianak,
Indonesia

selvi@ipdn.ac.id

³ International Relations Department, Nahdlatul Ulama Kaltim University, Samarinda,
Indonesia

sari.mulya@unukaltim.ac.id

Abstract. As a continuation of last year's preliminary research which was presented at the 2nd Universitas Lampung International Conference on Social Sciences (ULICoSS) 2021 and has also been published in its international proceedings, this research focuses on a specific issue, reviewing the implementation of Global Crime Governance (GCG) in solving the problem of illegal trade in cultural property. This initial research can be seen as an initial effort that will later develop studies on the illegal trade in cultural objects in the context of universal management within the area of global security studies. This work is based on data from the United Nations, UNESCO, UNODC, and INTERPOL revealing that there has still been global trade in cultural objects. Even though there are regulations regarding protection, prevention, and countermeasures of the illegal trade in cultural property; these efforts are still not commensurate with the losses suffered by the international community. The illegal trade in cultural property is a form of Transnational Organized Crime (TOC) that requires serious handling from all parties. By leveraging GCG provided by Jakobi (2020) as the main analytical framework, this study is a generally descriptive case study design whose data was obtained from various sources on the internet as well as various pages that contain information regarding the illicit trade in cultural objects and also efforts to overcome them by looking at the process/mechanism, actors, rules, values, institutions, cooperation, and also norms. This research shows that UNESCO has been central institution to govern international cultural order, but it is necessary to strengthen the agreements in establishing regulations related to the prevention and control of illicit trade in cultural property. In globally tackling this complex issue to effectively enforce the laws, institutions or entities or agents should avoid working in silo since every state and region has also specific regulations.

Keywords: Global Crime Governance · Trafficking in cultural property

1 Introduction

Human beings are born to continue their lives through a long learning process. They fulfill various basic needs and inherit various aspects of culture including language, behavior, and art across generations. Of these elements, handicrafts, architecture, and artifacts are among the tangible cultural products made by humans that can be found all over the world through a long journey of archaeological discoveries. These cultural objects are valuable because they contain historical meaning in the broadest dimension. These cultural objects are also witnesses of the many great civilizations that have ever existed in the world; and this is what makes these cultural objects attractive to own, both legally and also illegally [1].

This trade in cultural heritage objects has been done for a long time. Currently, more and more organized criminal bunch are embroiled in the trade of cultural heritage objects. The trade concerning cultural objects is an essential source for the laundering of proceeds of crime and there is a possibility that it can be used as a financial fount for terrorist groups [1]. Prevention and countermeasures against the trade in cultural heritage objects cannot be done solely by relying on law enforcement officials in a country but requires a rule that applies globally.

Historically, in the formulation of global regulations by UNESCO on “Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property” in the 1970s, there was an acknowledgment that there were enormous losses from the illegal trade in cultural property that occurred in the past [2]. Therefore, regulations are extremely required to impede and resist the import-export, including transfer of cultural heritage objects, especially illegally.

Even though there has been the 1970 Convention from UNESCO, cases in the world regarding the trade in cultural heritage objects have relatively been dynamic. This, for example, is reflected in the results of a survey conducted by INTERPOL in 2020 on 72 countries in four regions, covering Europe, America (northern, central, and southern), Africa, and Asia and the South Pacific [3], as presented in Table 1. Both terms of the number of violations, arrests, and violators from 2017 to 2020 seem volatile. However, in general, Europe was a crucial region for art and antiques, followed by Asia and the South Pacific, and Africa. As a complement to the data above [3] also announced, in 2020, there were 35,749 stolen objects. This series of figure revealed is a sign that cultural objects are still the target of theft and of course it causes immeasurable losses for the country and the world at large.

At this point, it is prominent to realize that the richness of cultural heritage is part of the collective heritage of mankind, which has a record of evolution and identity from humans themselves. Thus, international agreements/regulations are needed to protect it from theft, trafficking, and destruction [4]. In other words, protecting cultural products is a must since they are ‘priceless’.

Trafficking of cultural wealth is one of the variants of “Transnational Organized Crime” (TOC) which is still under-handled. It tremendously takes cooperation, effective mechanisms, and also rules that can bind all parties involved in it. Furthermore, strengthening the mechanism of Global Crime Governance (GCG) is felt to be needed in protecting these cultural heritage objects.

Table 1. Number of Offences, Arrests, and Offenders related to Artwork and Antiques, 2017–2020

Regions	Offences	Arrests	Offenders
Years: 2017			
Africa	9	19	37
Asia & South Pacific	181	103	126
Americas (north, central, south)	354	42	230
Europe	7,163	349	1.664
Total	7.707	513	2.057
Years: 2018			
Africa	88	130	131
Asia & South Pacific	1168	1166	1142
Americas (north, central, south)	105	1	2
Europe	7162	259	10,269
Total	8523	1556	11544
Years: 2019			
Africa	4681	112	51
Asia & South Pacific	2659	2450	119
Americas (north, central, south)	358	65	71
Europe	5088	428	2137
Total	12786	3058	2378
Years: 2020			
Africa	1104	738	496
Asia & South Pacific	1179	121	1615
Americas (north, central, south)	668	22	40
Europe	6251	352	2262
Total	9202	1233	4413

a. Source: INTERPOL (2021). Presented in the table by the authors.

2 Meanings of Several Terms

In this section, two main concepts related to this research are described, namely: *Global Crime Governance* (GCG) and *trafficking in cultural property*. The following two concepts certainly have assumptions and a series of elements that will later become the basis for researchers in conducting a review[4].

A. *Global Crime Governance*

This study uses the concept of global governance as an analytical framework. This term has a broad meaning and is even debated among scholars because it involves various fields: economy, environment, development, security, and others. In this article, the author uses GCG as the correct meaning. Jakobi in his book, "*Crime, Security and Global Politics: An Introduction to Global Crime Governance*", emphasizes that GCG involves processes at all levels of analysis: from national, regional, and international, referring to "how states, governments, and other actors seek to prevent, investigate, prosecute and punish crimes" [5].

Therefore, still referring to Jakobi, apart from looking at several aspects which include actors, rules, and ideas, it is also necessary to investigate the strengths, weaknesses, sovereignty, and the state's ability to enforce the law. We should also include aspects of cooperative efforts between nation-states and non-state actors (such as international organizations, civil society, activists, the private sector, and associations at all levels) as well as the dimensions of norms related to the types of crimes and acts and cooperation in solving problems. However, this framework certainly needs adjustments so that the author will slightly expand the scope and elements.

B. *Trafficking in Cultural Property*

"The United Nations Office on Drugs and Crime" (UNODC) states that Trafficking in Cultural Property is actions that can result in the loss, damage, change of hands, or theft of irreplaceable cultural heritage objects. The perpetrators of the crime carried out excavations and looting which then profited from the sale of these cultural objects. This action is very detrimental to all human beings considering that these cultural objects are the historical heritage of humans themselves [4].

In line with UNODC, the European Commission defines trade in cultural goods as the illegal export, import, and shift of demesne of cultural property such as items important for archeology, prehistory, history, literature, arts, and/or science. This trade in cultural objects is divided into three forms, namely theft from cultural heritage entities or personal collections, plundering of archaeological sites, and also the transfer of historical artifacts due to war. For the European Commission to efficiently protect cultural heritage from illicit trade, a sound legislative framework, international cooperation, and a strong evidence base and well-targeted project are required [6].

3 Previous Research

Scholars have discussed global crimes against cultural heritage and related issues such as the trade in tangible and intangible cultural objects and legal and regulatory mechanisms [7]. Spletstößer provides views on the implementation of the 1970 UNESCO Convention in Germany concerning courts [8]. In other cases, several experts have also written about the issue of cultural heritage objects, for example, the problem of the destruction of cultural heritage during the crisis in Syria [9] or what happened in Cyprus, the damage to cultural heritage objects due to the military invasion [10]. In Southeast Asia, in maintaining cultural heritage and also the dimensions associated with it, the elaboration was carried out in Cambodia [11] which has links with Thailand [12] as well as case studies in Indonesia [13].

In combating the trade in cultural heritage objects, the United States places greater emphasis on national and international law enforcement [14]. Meanwhile, another scholar, Losson, is more interested in researching the general public's curiosity about the financial source of the ISIS terrorist group from the theft and sale of cultural heritage objects [15]. For the Middle East region, Savvides explores the role of conservators in non-formal cultural commodity trade in Libya [10].

Yates, Mackenzie, & Smith consider postcolonial heritage to be influencing the flow of illicit trade in cultural heritage objects in the US, Europe, and Asia [16]. Meanwhile, Hardy explained the dark side of archeology in eastern Europe in identifying crocodile objects using metal detectors [17]. In addition, by investigating the characteristics of the illegal antiquities trade using a criminal network approach and without emphasizing the organizational structure, Campbell argues that the pattern is the same as trafficking or other criminal acts involving a highly complex structured organization [18].

4 Methods

The research method used is qualitative through content analysis. Secondary data on prohibited cultural heritage relies on several related documents, such as conventions and international law, official websites of UNESCO, the United Nations, and UNODC, including books, reputable international journals, and proceedings. As proposed by Jakobi [19], the concept of GCG which consists of several indicators guides the author to present the analysis. Therefore, it is important to explore norms, values, policies, regulations, mechanisms, and institutions – as complex frameworks – to address this particular global problem. This research will use qualitative-descriptive. No interviews with informants/ informants were conducted.

Content analysis will be used as a data analysis method in this research, which will collect and analyze text content consisting of words, ideas, themes, or messages communicated in writing, including books and academic journals [20].

5 Discussion

The analysis is divided into six fragments taking into account the actors; institutions; process and mechanism; regulations; ideas, norms, & values; and cooperation. The elaboration will emphasize mechanisms at the global level; yet, every single part will elaborate on regions and certain countries in the areas covering Southeast Asia, East Asia or Northeast Asia, the Middle East, Europe, the Americas, and South Asia as well.

A. *Actors*

Actors in this particular work refer to a person or groups of people who commit certain harmful, illegal, or immoral acts related to the trade in cultural property. Based on the data collected, the perpetrators consist of those who are part of a network of transnational organized criminal organizations. This statement, for example, relies on 2020 data provided by INTERPOL [3] which reveals that the trade in counterfeit goods is carried out by organized transnational actors worldwide. In addition, 1,160 units of counterfeit goods were confiscated in Africa and Europe, followed by 1,034 units of numismatic (currency collection) goods.

Even though the perpetrators are organized criminals, we must admit that aspects such as the hierarchical structure (which is inherent in the mafia, for example) are not covered in this activity. In other words, it can be said that it is difficult to identify their activities (see explanation by Chechi [21]). More specifically, for Europe, based on reports from its regional institutions, the operations run by the actors are clandestine, use the latest online technology, and support terrorism financially [22]. Moreover, there is the involvement of the groups of terrorists, specifically “the Islamic State of Iraq and al-Sham” (ISIS).

ISIS’ involvement is demonstrated by its efforts to gain economic benefits through the destruction of several archaeological sites and the illegal trade in cultural heritage objects in Iraq [23]. The actors involved are not limited to transnational organized crimes and terrorists, but also elements within the state, including perpetrators of corruption, police and law enforcement officers, and perpetrators of tax violations and money laundering [21]. In 2021, there were 52 arrests related to cultural trafficking objects during operations in 28 countries [24].

B. *Institutions*

At the regional level, “the United Nations Educational, Scientific and Cultural Organization” (UNESCO) has a very central role in managing the issue of trafficking in cultural property. From the historical aspect, UNESCO was formed in 1945, when the world ended World War II where the direction to be aimed was “to achieve lasting peace, economic and political agreements between countries are not enough. We must unite people and strengthen the intellectual and moral solidarity of mankind, through mutual understanding and intercultural dialogue” [25]. Since its establishment, in the spirit of ending war and achieving peace, there have been at least two monumental activities relevant to efforts to save various properties of very high cultural value, namely the World Heritage Convention in 1972 and the adoption of “the Convention for the Safeguarding

of the Intangible Cultural Heritage” in 2003 [25]. If we look further into the historical dimensions of its formation which was officially established on November 4, 1946, along with the enactment of the relevant regulations/constitutions, UNESCO was initiated by the education ministers of 44 European countries who were involved in the war against Nazi Germany; they met in London, England, in early 1942, determined to avoid war and rebuild the educational and cultural system [26], through a spirit of intellectual and moral nuance [27].

Apart from UNESCO as the central entity, we also need to take into account the role of some other global entities, namely:

- “the International Criminal Police Organization” (INTERPOL, The secretariat of UNESCO and INTERPOL are in France).
- “the United Nations Office on Drugs and Crime” (UNODC),
- “the International Institute for the Unification of Private Law” (UNIDROIT);
- “the World Customs Organization” (WCO);
- “the International Council of Museums” (ICOM), and
- “the Organization for Security and Cooperation in Europe” (OSCE).

As an intergovernmental entity, INTERPOL was formed to make the world safer by enabling inter-state police institutions (now 195) to cooperate and exchange data and information for handling criminal issues that cross the borders of sovereign states [28]. Historically, the search for the origins of INTERPOL can be started with a meeting of police and lawyers from 24 countries in 1914 to formulate an investigative effort and in 1923 what was known as the International Criminal Police Commission was formed and changed its name to INTERPOL in 1956 [29].

One other agency under the United Nations that was also given the mandate to deal with the issue of crimes related to cultural objects is UNODC, based in Vienna, Austria. Its duties include carrying out preventive efforts in tackling crime as well as responding to aspects of criminal acts from member countries to facilitate the possibility of international cooperation by basing itself primarily on “the United Nations Convention against Transnational Organized Crime” [30]. This institution partners with a series of institutions that have been mentioned in the previous two paragraphs.

In addition to UNODC, the existence of UNIDROIT (based in Rome, Italy, formed under the League of Nations in 1926 and 1940), which is independent with a current membership of 63 countries, also cannot be separated from efforts to prevent theft of valuable objects. culturally high considering its key role in harmonizing various international civil laws, and commercial laws between countries and groups of countries and ultimately formulating uniform legal tools, rules and principles [31].

As a complement to the above institutions, there is also the World Customs Organization (WCO) based in Brussels, Belgium. Formed in 1952, and now has 184 member countries, it aims to promote the effectiveness and efficiency of world customs administration where global cooperation is facilitated so that it is carried out legally and the public can be protected [32].

Another organ that is no less crucial is the International Council of Museums (ICOM) in Paris, France. It is an international museum community that was born in Paris. Being non-governmental, it can be said that 1947 was the starting point for its establishment

which was marked by the holding of conferences, and various meetings have certainly continued to this day [33]. Containing more than 40,000 professionals and more than 138 countries, ICOM itself aims to carry out research, protection, and as a medium of communication for community members who are serious about the field of cultural heritage in a broad aspect through networking and diplomatic meetings [34].

Finally, there is also “the Organization for Security and Cooperation in Europe” (OSCE) which has a very broad scope in its plenary effort to approach various security issues with dimensions: military-political, economic, and environmental, as well as human, which there are 57 countries that participate whose decisions are non-binding [35]. Of the many entities that deal with security issues in Europe, this is an organization with a very broad spectrum of security dimensions, both high and low politics. It enables political dialogue and sharing of values through various activities [36].

C. *Regulations*

Start at the global level, for the time being, there have been several prominent regulations concerning the effort to combat trafficking in cultural properties, namely:

- “UNESCO Convention on Illicit Trade in Cultural Property” (1970);
- “UNIDROIT Convention on the Return of Stolen and Illegally Exported Cultural Objects” (1995);
- ‘Palermo Convention’ or “The UN Convention Against Transnational Organized Crime” (2000); and
- ‘Nicosia Convention’ or “Convention on Offences Relating to Cultural Property (2017).
- In addition to the four main rules above, every country in the world also has rules that apply within each of its jurisdictions (See the detailed list of rules for each country at UNODC [37]).

D. *Idea, Norms, and Values*

Having cultural historical value and scientific wealth, the cultural property also has financial value. This financial value then makes the cultural property the object of theft and illegal trade. As the identity of a culture of a group, ethnicity, religion, or society in an area, theft, looting, and also trade in cultural property can harm the community because it is related to the loss of historical scientific data which is important for future generations to study their history [38]. For this reason, the export and import of cultural property must be monitored in regulation. However, INTERPOL data shows something different. Illegal trade related to cultural property is increasing every year. The value contained in this cultural property is sold in the global market at a high price so many people still collect cultural property even though they know and buy these items on the black market.

J.H. Merryman writing in “Two ways of thinking about cultural property” emphasizes that different perspectives on cultural property have led to the development of two international discourses that define cultural property as ‘art’ and ‘cultural heritage. The

group that views cultural property as part of art agrees to push for simple rules that can allow art connoisseurs to have these items as collections. Meanwhile, other groups see these items as more than just ‘art collections’, the cultural device that is still integrated with human life today, so there is a need for protection demanding that these cultural heritage items are not traded as a commodity because considered as the common heritage of mankind [7].

The global community must understand the huge loss caused by the illicit trade in this cultural property. For more than half a century, UNESCO has tried to instill moral awareness in the public that cultural property is a heritage of civilization so that the loss of an antique is not only judged in terms of its material but also its historical value. Therefore, we must have the same view on this matter, thus, prevention efforts and also crime prevention related to this cultural property can be implemented. By bringing the same values, then the norms related to the responsibility for cultural property can be implemented together by supervising each other [39].

However, the challenge to prevention or control is differences in perceptions related to the cultural property itself. Ideas and values in looking at the cultural property will influence views and actions toward prevention and mitigation. This can be seen from the forms of cases of cultural property trade that occur in various countries in several regions. The main motive of perpetrators to trade cultural property is economic profit. That the financial value of cultural property is something that is agreed upon by everyone, but the idea of cultural property as a legacy of wealth for all of humanity is not shared by everyone. This is what makes perpetrators carry out theft, looting, and illicit trade in cultural property. The protection of cultural property that is being campaigned by various parties from all levels does not apply because of this difference.

Differences in values in looking at cultural property have dropped the idea that protecting cultural property is part of saving the history of all human beings is a shared responsibility. Thus, the norms that have been sought to be formed will not be obeyed. Several cases in various regions have proven this [7].

The common perception regarding the urgency of protecting cultural property is one of the keys to preventing and overcoming TOC on these objects. For more than half a century, UNESCO has carried out the prevention and control of illicit trade in cultural property. Getting to the point of agreeing to celebrate the International Day Against Illegal Traffic on cultural properties on November 14 is a UNESCO success in raising international awareness. Although there are still many improvements and efforts that must be made in preventing and overcoming illicit trade in cultural property, UNESCO has proven its seriousness which is shown by strengthening cooperation between countries, institutions, and various institutions that are indeed focused on cultural property issues [40].

E. Cooperation, Process, and Mechanism

Strengthening and broadening strategic ties among agents to staunchly tackle TOC on the cultural property have always been imperative. Therefore, cooperation continues to be improved at various levels of actors. The main unit in eradicating and combating illicit trade in cultural property is UNESCO. Through “the Convention on Illicit Trade

in Cultural Property” (1970), UNESCO was able to raise awareness of the global community about the dangers of illicit trade in cultural property and also the framework for cooperation between member countries for prevention, legal action against perpetrators, and also encouraging the return of cultural property to the rightful place [40].

On the 50th anniversary of its “Convention on Illicit Trade in Cultural Property” 1970, UNESCO and the partners such as INTERPOL, ICOM, WCO, and UNIDROIT made the moment this is an opportunity to raise international awareness to be more active in combating the issue of illegitimate trade of cultural property [41].

Besides UNESCO member countries and government institutions, collaboration in the prevention and control of illicit trade in cultural property is also carried out with non-state actors like ICOM and research institutions consisting of “The Art-Law Center, The Association for Research into Crimes against Art” (ARCA), “The Center of Studies on the International Legal Cooperation” (CECOJI) and also “the European University Institute” (EUI). Together with government institutions, all agents have an important role, not only in providing information and education, including training, including in the development and practice of facilities for the return of cultural property traded on the black market [41].

All actions cannot be separated from the 1970 UNESCO Convention on Illicit Trade in Cultural Property the 1970 UNESCO Convention on Illicit Trade in Cultural Property which is the basis for the principle of solidarity and collective responsibility in protecting the world’s cultural heritage. The mechanism of UNESCO regulation is when regions and countries adopt the rules and sanctions contained in the convention [42].

Cooperation between countries or Regional Cooperation is also through the rules contained in the convention. Because the TOC for cultural heritage goods is in the form of a network, what is regulated is not only prevention and control but also the mechanism for returning these goods, to the market, and also consumers. Agreement on these matters is still not fixed. Especially about consumers and also the market. In addition to having too many people and interests, the internet and social media have also become part of the market so compiling regulations must also be appropriate and appropriate. This is the challenge that is still being worked on today [42].

Challenges come from when several rules become clash for export and import regulations for some regions or countries that have permits to trade in ‘art’ goods. When the rules are firmly enforced, it is not uncommon for the ‘weak’ and ‘inconclusive’ to be sanctioned. Because it is not commensurate with the losses experienced by humans [43].

This out-of-sync between international rules and conditions of the region or country is still a big homework that must be faced by UNESCO, which to this day struggles as an international cultural order. One thing that must be done to solve the TOC cultural property problem is to equate the value of the cultural heritage objects first. Thus, the idea of the urgency of protecting cultural heritage can be accepted internationally, so that the norms of protection, as well as the law, can be adhered to.

6 Conclusions

For more than 50 years, through the UNESCO Convention on Illicit Trade in Cultural Property (1970), UNESCO has become an international cultural order in the prevention

and control of illicit trade in cultural heritage objects. And during these 50 years, it can also be seen that UNESCO's actions are very dynamic regarding the war against this illegal trade in cultural objects. The assumption that the UNESCO is at the central of global governance in preventing and overcoming the illicit trade in cultural property can be seen by considering the actors/agents; institutions; regulations; ideas, norms, values; and Cooperation, Processes, and mechanisms.

The actors involved are not limited to transnational organized crimes and terrorists, but also elements within the state, including perpetrators of corruption, police and law enforcement officers, and perpetrators of tax violations and money laundering. At the regional level, UNESCO as an institutionalized institution under the United Nations has a very central role in managing the issue of trafficking in cultural property. Together with its partners, UNESCO implements prevention and countermeasures following the 1970 Convention.

Four main regulations related to this issue of prevention and control, namely "the UNESCO Convention on Illicit Trade in Cultural Property" (1970), "the UNIDROIT Convention on the Return of Stolen and Illegally Exported Cultural Objects" (1995), "the UN Convention Against Transnational Organized Crime" (or 'Palermo' Convention 2000), "the Convention on Offences Relating to Cultural Property" (or 'Nicosia' Convention 2017).

The last is the mechanism that is interwoven in the Cooperation carried out by all levels. In addition to UNESCO member countries and government institutions, collaboration in the prevention and control of illicit trade in cultural property is also carried out with non-state actors. All actions taken cannot be separated from the 1970 UNESCO convention. The mechanism of UNESCO regulation is how regions and countries adopt the rules and sanctions contained in the convention. Challenges arise when some rules become a clash for export and import regulations for some regions or countries. In addition, punishment is still generally given to perpetrators, not to buyers or consumers, so the demand for cultural goods is still there and continues. This still needs to be agreed upon by the international community so that there are no more conflicting rules.

Overall, UNESCO can be said to be the main foundation in the fight against the illicit trade in cultural objects. Many rules and agreements to concrete actions from UNESCO are adopted by regions or countries. However, there are still some things that must be resolved by UNESCO to become global governance related to this cultural heritage issue. One thing that must be done to solve the TOC cultural property problem is to equate the value of the cultural heritage objects first. Thus, the idea of the urgency of protecting cultural heritage can be accepted internationally, so that the norms of protection, as well as the law, can be adhered to.

Acknowledgment. The authors would like to kindly thank the Institute for Research and Community Services of the University of Lampung for financially supporting this research and making this publication reality.

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