

Observations on Cultural Site Protection in the U.S.A.

by Pisit Charoenwongsa

Damage to and depreciation of cultural resources due to mismanagement result in the continuing loss of each nation's heritage the world over. The U.S. is no exception despite its many practical laws, executive orders, and regulations as well as its numerous concerned personnel ranging from federal, state and local officials to academic professionals and informed members of the general public.

AUTHORITY

There is no central authority for archaeological resource management in the U.S. Sites on private lands are entirely uncontrolled. Sites on public lands are the responsibility of numerous federal, state, and local agencies.

At the national level, the most important agency is the Department of the Interior. It has a number of branches responsible for archaeological resource management, namely: the National Park Service and the U.S. Fish and Wildlife Service (under the direction of the Assistant Secretary for Fish and Wildlife and Parks), the Bureau of Indian Affairs (under the Assistant Secretary for Indian Affairs), and the Bureau of Land Management (under the Assistant Secretary for Land and Minerals Management).

Among these, the National Park Service appears to be the most concerned. Its organization is broken

down into a number of divisions that are either specifically charged with archaeological activities, as in the case of the Archaeology Technical Assistance Division, or closely involved with archaeology, like the Divisions of Anthropology, History, Preservation Assistance, and Park Historic Architecture.

In the Department of the Interior, the U.S. Fish and Wildlife Service places archaeology within its Division of Refugees. In the Bureau of the Land Management, archaeology is overseen by the Division of Recreation, Cultural and Wilderness Resources, as well as by its state-level offices which again are further divided into lower levels -- to district offices and resource areas.

The Bureau of Indian Affairs similarly directs its archaeological management through its area offices and their agencies and sub-agencies. Other agencies having archaeological concerns within the department include the Bureau of Land Reclamation, the Minerals Management Service and the Office of Surface Mining, Reclamation and Enforcement.

Outside the Department of the Interior there are also federal agencies responsible for archaeological site preservation. These include the Forest Service and Soil Conservation Service of the Department of Agriculture, the Western Area Power Administration

of the Department of Energy, the Air Force, the Army Corp of Engineers and the Navy/Marine Corps. It is interesting to note that the American military forces are charged with protecting not only the nation but also the nation's heritage.

Many states, counties and cities have agencies that replicate the functions of those on the federal level. Like their federal counterparts, these agencies deal with policy and management mainly for the preservation of important archaeological properties. Other aspects of archaeology, namely problem oriented researches and rescue archaeological projects, are carried out by academic and contract archaeology organizations within universities by private contract archaeology firms, and/or by tribal archaeology offices.

It may be noted that organizations like the latter are not well understood in Thailand where there is essentially a single central authority for archaeology. But some aspects of the American system could be adapted in Southeast Asia, particularly in Thailand. For instance, in view of the ever increasing rate of destruction to Thai sites, the establishment of contract archaeology might be encouraged.

On the other hand, certain aspects of the American system are not worth introducing in a country as small and with such uniform laws as

Thailand. Indeed, the diversity of agencies with archaeological responsibilities in the U.S. seems somewhat excessive.

In view of the United States' size and in spite of its attachment to a management system based on the "check and balance" concept, there seems to be a real need for more centralization and coordination. The U.S. would benefit greatly from the establishment of an agency charged with management of all federally controlled cultural resources.

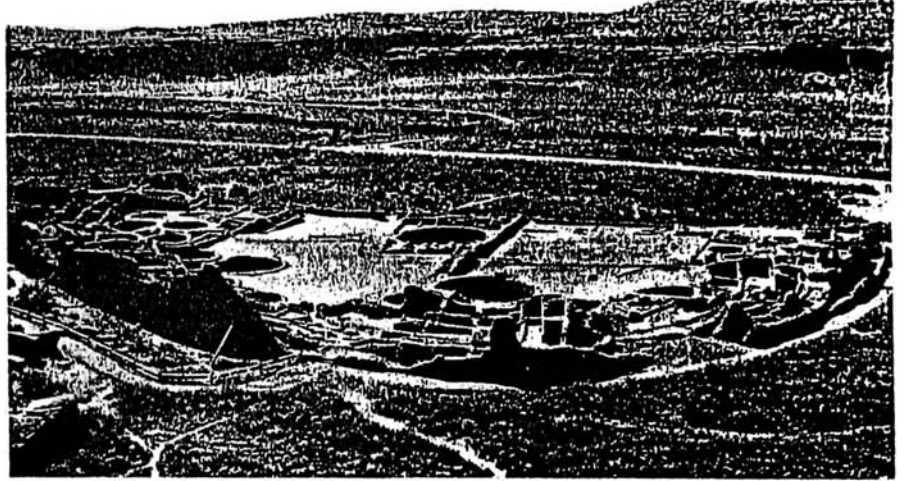
LEGISLATION

The United States' concern for preservation of archaeological and historical properties is unquestionably serious. No other country has as many laws and orders governing cultural resources as does the U.S.

That nation's concern is further demonstrated by the fact that, with the exception of Canada, it is still the only country, where importing of antiquities assumes major proportions, which has ratified the 1970 UNESCO Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property.

This admirable decision was taken by the U.S. Senate in 1983, following intense lobbying by American archaeologists and other concerned citizens. The fact that ratifying the UNESCO convention was not regarded as a mere exercise in international public relations is demonstrated by many recent actions and statements by various federal agencies.

For example, a publication of the Department of State comments: "...The legislation is important to our foreign relations, including our international cultural relations. The



Pueblo Bonito at Chaco Canyon.

expanding worldwide trade in objects of archaeological and ethnological interest has led to wholesale depredations in some countries, resulting in the mutilation of ceremonial centers and archaeological complexes of ancient civilizations and the removal of stone sculptures and reliefs. In addition, art objects have been stolen in increasing quantities from museums, churches, and collections. The governments, which have been victimized, have been disturbed at the outflow of these objects to foreign lands, and the appearance in the United States of objects has often given rise to outcries and urgent requests for return by other countries. The United States considers that on grounds of principle, good relations, and concern for the preservation of the cultural heritage of mankind, it should render assistance in these situations" (*USIA 1989 : 2*).

Ironically, one wonders why the U.S. does not impose export controls on its own cultural property. Because of increasing demand for antiquities

(a good Mimbres pot from New Mexico, for instance, is said to bring 20,000 dollars), a great number of sites in the U.S. have been looted for salable items, thousands and thousands of which are leaving the country to fill museums in Germany and Japan. As one saddened observer puts it, "They (the looters and dealers) gain fast bucks, we lose entire civilizations".

The federal government's long-standing good intentions in developing policy to protect and manage cultural resources for the benefit of both the present and the future are clearly shown by the history of congressional legislation to these ends, which contains the following milestones:

1. The Organic Administration Act of 1897, authorizing the Secretary of Agriculture to protect cultural resources from theft and destruction.

2. The Antiquities Act of 1906, providing for the protection of historic and archaeological resources on federal lands, and prohibiting excavation of such antiquities without permission. The act authorizes the Presi-

dent to declare areas of public lands as national monuments.

3. The National Park Service Organic Act of 1916, authorizing parks to "...conserve the scenery and the national and historic objects and the wildlife and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations."

4. The Historic Sites Act of 1935, declaring the public use of historic sites and building as a national policy, and providing the criteria for designating national historic landmarks. Criminal sanctions for violation of regulations pursuant to the act have also been established.

5. The Federal-Aid Highway Act of 1956. This was the first statute enacted to protect archaeological resources from the impact of federal or federally financed construction projects.

6. The Reservoir Salvage Act of 1960, the first act to authorize federal agencies involved in reservoir construction to spend up to 1% of their construction budget on research and the protection of historic/archaeological resources in the affected area.

7. The National Historic Preservation Act of 1966, as amended in 1976 and 1980. The Act was established as a national policy on historic preservation which is defined as follows: "...the protection, rehabilitation, restoration, and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, or culture, including the encouragement of preservation on state and private levels."

The Act also created a Presi-

dent's Advisory Council on Historic Preservation and authorized the establishment of a National Register of Historic Places. It designated the State Historic Preservation Officer as the individual responsible for administering programmes in each state.

8. The Department of Transportation Act of 1966 authorizing the Secretary of Transportation to dismiss or discourage any programme or project that requires the use of land from a historic site of national, state or local significance. The act applies to the Federal Highway Administration, Federal Aviation Administration, the Urban Mass Transportation Administration, and the U.S. Coast Guard.

9. The National Environment Policy Act of 1969 requiring federal agencies to prepare an Environmental Impact Statement (EIS) for programmes or projects that affect the quality of the human environment, including both national and cultural resources.

10. The Historical and Archaeological Data Preservation Act of 1974, amending the Reservoir Salvage Act of 1960.

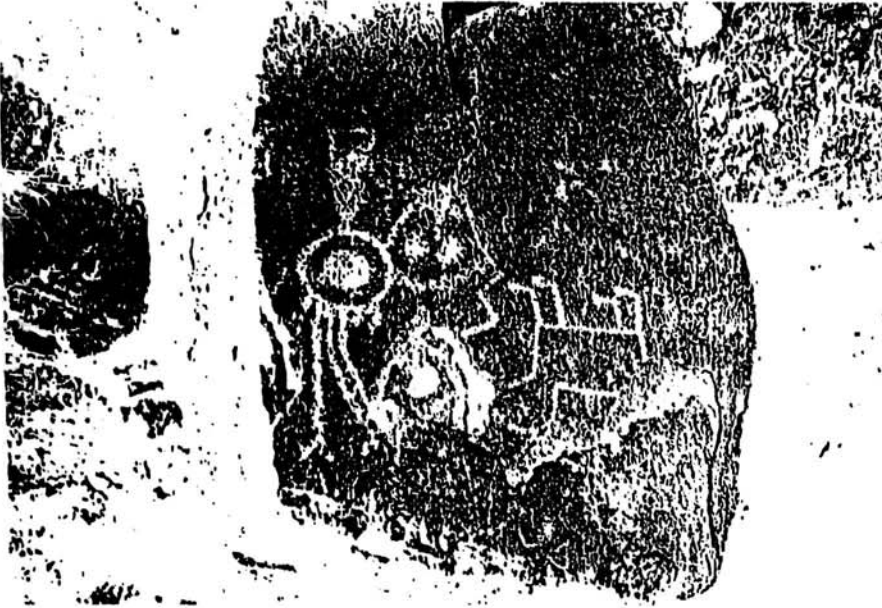
11. The Archaeological Resources Protection Act of 1979 prohibiting the removal, sale, receipt, and interstate transport of archaeological resources obtained illegally from public or Indian lands. Permits may be issued to qualified institutions for excavations. Penalties for violation include fines and imprisonment.

12. The findings and policy of the National Historic Preservation Act of 1980, amending the Historic Preservation Act of 1966.

This list is far from complete even in terms of federal laws. There are also many executive orders, departmental regulations as well as state and local laws aimed at curbing the destruction of archaeological and historical resources. Even to one ignorant of the subject, the very number of these laws might suggest



A sign post at the entrance to Chaco Canyon, a US monument included in the World Heritage List.



A proposed Petroglyph Park in Albuquerque, New Mexico, is in danger as the city grows west. "Friends of the Albuquerque Petroglyphs (FOTAP)" has been formed to campaign against a development plan into the area.

that they have not been completely effective, and this indeed turns out to be the case.

The destruction of American archaeological sites is rampant and the illegal trade in American antiquities is thriving. They proceed at an ever increasing rate.

PROBLEMS

The U.S., although still known as a major antiquities-importing country, is now also undergoing a devastating loss of its own relics of the past. It seems there is almost no way to stop illicit excavations despite continuing attempts to make "looting" and unscientific or illegal "collecting" dirty words and in spite of numerous public outreach programmes.

While archaeologists blame themselves for not doing enough to protect these non-renewable/irreplaceable resources of the nation, the dealers and looters worry they may

not be able to continue filling the increasing number of orders from art museums and private collections or foundations in Europe and Japan.

Judges and law enforcement personnel are similar all over the world in that they think lightly of the public loss in abstract treasures. One must sympathize with the problems of a justice system, such as that of the U.S., so overloaded with crimes of violence. Unfortunately, however, the looting of sites of national significance, which results in the destruction of local or even world history for the sake of the economic benefit of a few, tends to be considered non-serious just because it is non-violent.

What use are any of these protective laws when the justice system sympathizes more with the criminal's right than with the nation's loss? There are many factors involved in the looting and "nation-selling" business other than the legal aspect. However,

the author finds the legal aspect especially interesting in the U.S. Not only has it more individual protective laws than other countries, but also officials make serious attempts to make the laws work for the benefit of the national, not for private individuals.

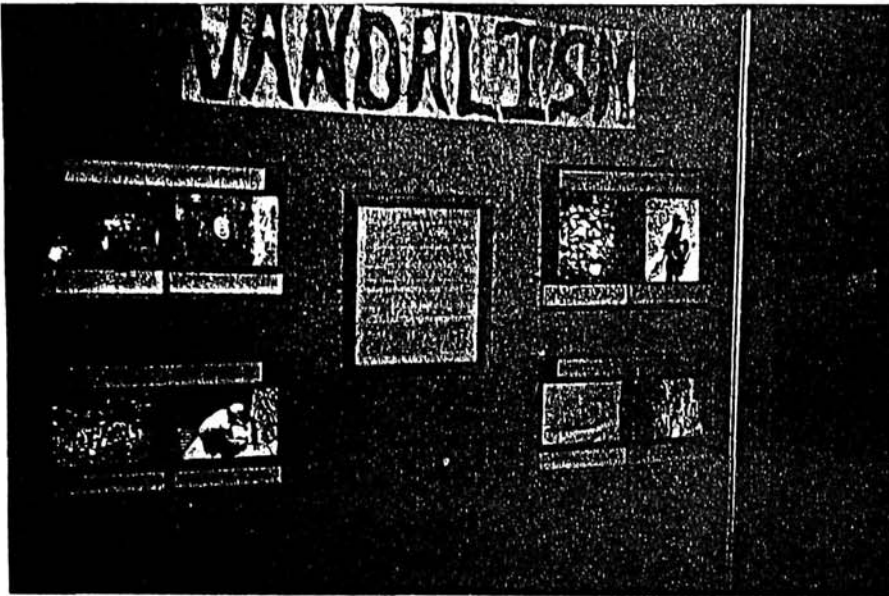
U.S. laws clearly separate federal or public lands from those under private ownership. Anyone can dig up any antiquity, regardless of its type or age, on their own land. They can do anything with it as they please: they can sell it, destroy it, or convert it into decorative lamps and paperweights.

This "right," it seems, is too deeply embedded in American (though not British) Common Law to be altered in any way. Consequently it is difficult for authorities to keep track of "discoveries" and their fate unless a registration system is established with the cooperation of private citizens whose properties contain antiquities.

The legal status of antiquities in Thailand is quite different. The relevant laws, chiefly the Act on Ancient Sites, Antiquities, Art Objects and National Museums of 1961, are comprehensive and uniform throughout the country. Ancient objects and sites on private land belong to the country, just like objects found in national parks and military bases.

Individual Thais may own archaeological objects, but the government may require that such objects be officially registered. A licensed antique shop is required to provide records of the sources of its merchandise, and an export permit must be obtained from a government agency. Relatively severe penalties are prescribed for violations of the law.

In practice, however, economic

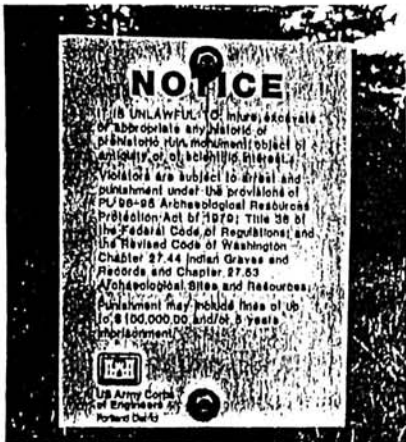


both Thailand and America, the looting and selling of ancient objects often seem to be unofficially condoned by the police, the courts, and high officials. High-ranking individuals in both countries are often collectors. And the poor of both countries often regard an archaeological site as a justifiable exploitable resource.

Tightened law enforcement will certainly help, and so will more comprehensive laws and the public exposure of those who break the law, together with those who encourage them. But the key, as both Thai and American archaeologists recognize, is public attitude. And it is unclear how this can be changed.

What kind of message can be sent out to the public to make treasure-hunting seem less romantic, or make antique-collecting less prestigious, or make site destruction appear to be more shameful? How can this be done before the world loses the remains of its entire history? Whose responsibility is it to change public attitudes, making ordinary people more aware of the immensity of the loss they are experiencing as more and more sites disappear and more and more ancient art objects are wrenched out of context in order to decorate offices and living rooms?

The handful of American archaeologists seriously attempting to fight against looting in order to preserve the world's heritage and history are admirable. A great number of posters, brochures, pamphlets and bookmarks, persuading the public to "Take Pride in America", "Tour the Past", and "Please Help Project America's Past", etc., have been distributed very widely as part of the campaign against looting.

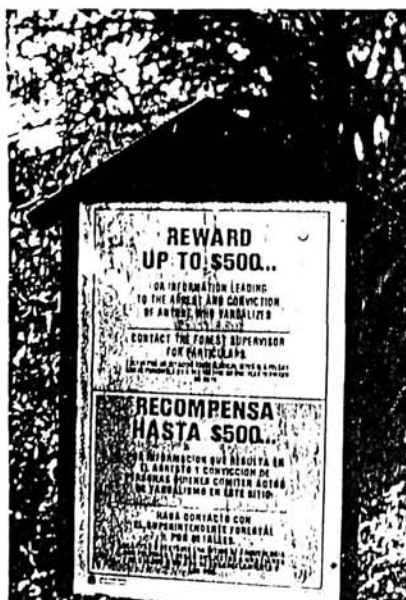


The rapidly expanding campaign against looting of archaeological sites has generated a variety of public notices.

pressures and traditional civil rights considerations make these laws difficult to enforce. The result is that looting and illegal buying and selling of antiquities is rampant in Thailand.

Although there are recent indications of an increased willingness on the part of the police and the cultural authorities, to cooperate in enforcing antiquity laws, it is still not possible to say that the situation is coming under control.

This is not to pretend to have come up with a simple explanation as to why the problem of the loss of cultural heritage occurs or why, in



But perhaps more comprehensive messages are needed, because we should not only preserve the past just for the future, but also for the enjoyment of present day society. The public must be convinced of the values of the call for the preservation of archaeological resources. This call for preservation is not for the pleasure of a few archaeologists, and is certainly not for the delectation of the wealthy and the cultured elites. Instead, it benefits everyone, both educationally and economically.

We have to be able to demonstrate to the public that if sites are properly excavated, and materials analyzed, interpreted, curated and maintained, they can bring more money to local communities--that a few looters, for the sake of short-term private profit, can deprive their neighbors of an important long-term source of economic strength.

The splendidly maintained sites on federal, state, and tribal lands in the United States provide excellent examples of how this can work. Many of these have proven to be worth millions of tourist dollars per year as well as becoming the foci of pride to local inhabitants, creating a feeling of identity.

Such projects use up money and time, yet their economic life is long. And they benefit all, not just a few privileged individuals.

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“Take only pictures. Leave only footprints” is among the many effective messages imparted to visitors of cultural sites in the U.S.A.